



R. White scul

S^T THOMAS WENTWORTH
Viscount Wentworth, Baron
howse, Newmarch, Oversley &
and Generall Governor of the
President of y^e Councill establish^d
L^{ie}utenant of y^e County & City
Privy Councill and Knight of y^e



K^{ing} EARLE of STRAFFORDE
Wentworth of Wentworth Wood
Raby L^{ie} Lieutenant Generall
Kingdome of Ireland; and L^{ie}
ed in y^e North parts of England
York & one of his Ma^{ties} most hon^{orable}
most Noble order of the Garter.

4141.
THE
TRYAL

O F
Wentworth
Thomas Earlof Strafford,

Lord Lieutenant of IRELAND,

Upon an

Impeachment of High Treason

B Y

The COMMONS then Assembled in

PARLIAMENT,

In the Name of THEMSELVES and of

All the Commons in England :

Begun in *Westminster-Hall* the 22th of *March* 1640.

And Continued before Judgment was Given until the 10th of *May* 1641.

Shewing the Form of PARLIAMENTARY Proceedings
In an IMPEACHMENT of TREASON.

To which is Added

A short Account of some other MATTERS of FACT
Transacted in Both Houses of PARLIAMENT,
Precedent, Concomitant and Subsequent to the said TRYAL:

With some Special Arguments in LAW
Relating to a BILL of ATTAINDER.

Faithfully Collected, and Impartially Published,
Without Observation or Reflection,

By JOHN RUSHWORTH of *Lincolnes-Inn*, Esq;

L O N D O N,

Printed for John Wright at the Crown on Ludgate-Hill, and Richard
Chiswell at the Rose and Crown in St. Pauls Church-Yard, 1680.



*S^r Robert Pye of Clifton
Campville Staffordshire Bar.^t*



To the Right HONOURABLE
GEORGE
EARL OF
HALIFAX;

One of His Majesties most Honourable
PRIVY COUNCIL.

My LORD,



none in whose Devotion, to the service of the King
and Kingdom, I could so confide, as in your

B

Lordships,

The Epistle Dedicatory.

Lordships, to Patronize this plain and full Relation of the proceedings in Parliament, in the Case of the greatest Minister of State, in his time.

I some times doubted that the Dedication of these Papers to your Lordship, might be improper, because of your Lordships Descent from the Sister of that great Personage, whose unhappy Fate is here related. But having well considered, that Honor, Truth, and Justice, have the Supreme Empire in your truly Noble Soul; and that a full and clear Narrative of all the Matters of Fact, that occurred in this great Affair, with the Intentions and Constructions of them, as declared from the mouth of your Noble Ancestor himself, is the fairest and justest way to represent him truly to future Ages; I conceived it not unfit for your Lordship to favour this true Account of him, *which may protect his Name from the injuries, both of Ignorance and Malice.*

I ought not, neither can I flatter your Lordship; you are too well known to need any thing that can be said by me of your Worth and true Nobleness; and the Character of this your Ancestor is best to be collected from the following Papers. His Letters published by me in the Second Part of my *Historical Collections*, and his Behaviour
in

The Epistle Dedicatory.

in this solemn Tryal here published, discovers the greatness of his Parts, the quickness of his Apprehension, the excellence of his Wit and Eloquence, the contempt he had of Death, and the serene Composure of his mind in that Part of his Life, which falls within this History,

I should not have dared to present this Work to your Lordship, so nearly related to this eminent Minister of State, if I had not been a Witness to all the steps of the proceedings in this great Action, and if I had not taken in Characters, as well and truly, all that was said for him, as what his Accusers said against him; and therefore I can with great assurance aver it to be a candid Representation of Matter of Fact, which is all I pretend to publish to the World: and as far as the exactest care could carry me, I have done it so punctually true, that I am hopeful there is none can have any just Exception to any part of it. My Lord, There is none alive can judge of a Work of this nature better than your self, who as you are descended from a Race of Statesmen, being Nephew and Grandson to the Two chief Ministers of the last age, this Great Earl, and the Wise and Fortunate Lord Keeper *Coventry*, so are you lookt on by all, as a Person born for the Service of the KING, and the publique good of your Countrey: And as

The Epistle Dedicatory.

I have always had a constant Experience of your Goodness and Indulgence to my self, so I humbly hope your Lordship will favourably construe my intentions in this Dedication, and accept of it as a tribute of Duty and Acknowledgement humbly offered by

May it please your Lordship,

March 25.

1680.

Your Lordships most Humble,

Most Faithful, and

Most obliged Servant

JO. RUSHWORTH.

THE PREFACE.

I Cannot think that there wants an Apology for publishing the ensuing Papers, although the Press seems over-charged.

The Trial of Thomas Earl of Strafford, was, and is, some way or other, the Concern of every Man of England; and the Commissioners of Scotland and Ireland, thought those Kingdoms also Sufferers by his Deportment, and joyned in the Prosecution against him.

All the Commons of England by their Deputies in Parliament were his Accusers, and the Impeachment against him was in their Names.

The Matter of his Charge had Reference to every English Man, and all their Posterities; He was accused of designing to destroy the security of every of their Estates, Liberties and Lives, and to reduce them all to be subject to meer Will and Pleasure.

It may therefore be said in the Maxim of our Government, not much varying the sense, Quod Omnes tangit, ab omnibus tractari debet. Every man ought doubtless to know his own Case, to understand whether that Great Man was justly accused of such a heinous Crime; and whether the Kingdom escaped such a fatal blow, as was then alledged by his exemplary Fall, under the Judgement of the King and Parliament;

For this purpose I expose to the common view, the whole Proceedings of his Trial, being the most solemn, deliberate, and every way, the greatest Tryal, whereof we have any Account in our English Story.

The Preparations for his Tryal were made with an unusual solemnity, and were the Results of the Prudence of many selected Lords and Commons, as a Committee of both Houses.

The PREFACE.

The usual places for Administring Justice, and Tryals of Offenders, were thought too mean upon so great an occasion, and therefore Scaffolds were erected in Westminster-Hall, fit to receive so great an Assembly, as were to attend his Trial.

His Majesty had a Closet provided for him, the Queen and Prince near the place, where the House of Peers sate, and was every day at the Tryal of the said Earl, and might hear what was said, and see what Witnesses were produced, and take a full view of the greatness of the Assembly, and yet remain privately in His Closet unsecn. Seats were prepared for the Lord High Steward, and all the House of Lords, who sate as his Judges; Woolsaeks were placed for all the Justices or Judges to be their Assistants: There were also Seats provided for all the Commons in Parliament, though they came not with their Speaker and his Mace, as a House of Parliament, but as a Committee of the whole House; Seats were likewise prepared for the Commissioners of the Kingdom of Scotland and Ireland, which made it an Assembly of Three Kingdoms.

At the lower end of the Scaffolds, a place was provided for Thirteen Members of the House of Commons, who were appointed for the Earls Prosecutors, to manage the Evidence against him; near to them stood the Prisoner with a Table before him, and a Desk to write upon, and a Chair was set for him to rest himself when he found it needful.

The Author of the ensuing Papers was purposely placed near the Earl, to take in Characters whatsoever should be said, either against or for him, and to the best of his skill, he did impartially put in Writing what was said in the Case Pro and Con; he hath not wittingly or willingly omitted the least Particle said in the Prisoners Defence, either by himself or any body in his behalfe; he hath not varied the form or manner of his Expressions, being full of Eloquence, and pleasing Rhetorick, and excellently adapted to move compassion, both in his Judges, and the numerous Assembly of Auditors.

The Greatness of this Minister of State's Tryal every way answered the High Station and Employments, unto which he had been advanced; and the lofty Designs he had managed. And the Books of his Life, from the time of his admission in the Cabinet of his Princes

The PREFACE.

Princes Council, were exposed to the Worlds View and the most profound Learning of the Laws of our Countrey, the sharpest Wit, and the deepest wisdom of our Kingdom were employed to examine and measure what he had done. Not only by those Rules of Justice, whereby all our ordinary Courts of Justice are wisely bound by our Ancestors, to proceed in the Trial of Criminals, but by those Fundamental Rules, and Maxims of our English Government, which that Parliament asserted to be the safeguard, both of the King and People, and to be so reserved in the custody of the Supream Legislative Power, that no Criminals, by the violation of those First Principles, which they said gave the Being to our Government, can be judged otherwise than in Parliament, the ordinary Judges being obliged by that famous Statute of the 25th of Edw. 3. concerning Treasons, to Respit Judgment in all such Cases, until the matter be declared in Parliament, and Judgment there given; whether the offence whereof any shall be accused, be Treason, or other Felony

This Tryal being upon an Impeachment for Treasons, not specially named and declared in the Statute of the 25th Edw. 3. occasioned more industrious and exquisite searches to be made into the most antient Records of the Kingdom, than had been for some hundreds of years, and also caused the most Learned of the Long Robe to tumble over their Law-Books, and to apply their minds to look into the bowels of our antient Laws, and the reason of them, from whence they had their Being, and doubtless the Counsel on either side brought out of their most secret Treasuries, the quintessence of all their Learning and Studies; besides the weight of the Cause, every mans Reputation pushed him to shew his utmost skill before so great and so grave an Assembly of such Critical and excellent Judges and Auditors.

The Reader may find in these Papers all the sweetness of Learning, Wisdom, and Policy, which was the issue of the long Labours and Travels of many industrious Bees, in the whole spring of their youth and vigor.

The long continuance of this Trial, is another Evidence of its greatness; it begun the 22 of March 1640. and continued with the interposition of divers Intervals, for deliberation, and providing Evidence, until the 12th of April 1641. And an ACT for Judgment in a Bill of Attainder, passed against the Earl in the House of Commons the 21 of the same month, and in the House of Peers on the 10th of May following.

The PREFACE.

I ought not to anticipate the Reader with any thing that happened during this solemn Tryal, nor to point at matter of Law or Fact; every Reader ought to suppose himself present at the Tryal, and to make his own Comments upon the Law and Fact, as it appeared; every Professor or Student of the Law may transcribe into his Common place Book, what he shall judge of most use, and every States-man may do the like in his Studies; and every Man great and small, may, if he please, make excellent Moral Reflections upon the Rise, Greatness, and fall of this seeming Fortunate, and yet at last Unfortunate Gentleman.

See Historical
Collections the
First Part. Pa.
500.

This Great Mans principal Crime, objected against him by the Parliament, was his attempts to subvert that excellent Law called The Petition of Right, which he himself (especially in a Speech made by him in Parliament on the 22 of March, in the year 1628. had promoted and pressed with the most ardent Zeal, as the best Inheritance he could leave his Posterity, and all the Laws confirmed and renewed in that Petition of Right, were said to be the most invenomed Arrows that gave him his mortal wound; but how justly these were urged against him, is not my part. to determine.

I wish my Labours in Collecting truly the Matter of Fact, may be an occasion to many, to make True and Righteous Judgment in this particular Case so much Controverted, and that from these Matters of Law and Fact, such right measure may be taken, that all our future Ministers of State may escape the conjoynd Complaints of the Three Kingdoms against them: and that the Government may be so Administred, as shall best conduce to the happiness of the King and Kingdom.

ADVERTISEMENT,

There is lately published *Historical Collections*: The Second Part. Containing the principal Matters which happened from the Dissolution of the Parliament, on the 10th of March, 4 Car. I. 1629. until the summoning of another Parliament, which met at Westminster, April 13. 1640. With an Account of the Proceedings of that Parliament, and the Transactions and Affairs from that time, until the meeting of another Parliament, Nov. 3. following, with some remarkable passages therein, during the First six months. Impartially related and disposed in Annals. Setting forth only Matter of Fact in order of Time, without Observation or Reflection. By John Rushworth of Lincolns-Inn, Esq;

An Introductive Account of several Passages previous to the GRAND TRYAL of Thomas Earl of Strafford, who was Impeached by the House of Commons on the 11th of November, 1640. As also of Passages and Proceedings in Parliament from that time unto the 22. of March the same Year, when his Trial first began in Westminster-Hall.

Likewise an Account of Proceedings and remarkable Passages in both Houses of Parliament, and some material Matters elsewhere Concomitant to the said Trial, during the time it lasted, which was until the 30th of April, 1641.

Friday, November 6th, 1640.

THe House of Commons having in the first place, according to ancient Custom, settled all their Grand Committees, for Religion, Grievances, Courts of Justice, Trade, and Priviledges; It was moved, That in regard the Complaints of the Kings Subjects in Ireland were many, who had undergone great Oppressions in that Kingdom by Male-Government there, and come to this Parliament for Relief, might be referred to a Committee of the whole House for that purpose only to be appointed. This motion being made by Mr. Pym, and seconded by Sir John Clotworthy, avowing many particulars of the Complaints mentioned to be true, it made a Discovery to such as were well-wishers to Thomas Lord Wentworth Earl of Strafford and Lord Lieutenant of Ireland, that this Motion was intended by a side-wind, to accumulate Complaints against him the said Lord Lieutenant, in order to an Accusation; so when the question was put, after long debate, viz. Whether the Irish Affairs should be referred to a Committee of the whole House? The House was divided, Sir John Clotworthy and Sir Henry Mildmay being of Opinion for the Yeas, were appointed Tellers of the number of the Noes; and Sir Edward Bainton and Sir Richard Ligon being of Opinion, not to refer this business of Ireland to a Grand Committee, conceiving it without President, were appointed Tellers of the number of the Yeas, and when they had told all, they came up to the Table, and made this Report to Mr. Speaker, That there were with the Yeas 165, and with the Noes 152, whereupon it was Resolved upon the Question, That the Irish Affairs should be referred to a Grand Committee of the whole House, to meet to morrow in the Afternoon at Two of the Clock in the House, and afterwards every Thursday at the same hour and place: And this Committee is Ordered to have the like Power as the other Grand Committees of the whole House have.

This Vote being carried for a Grand Committee as to Irish Affairs, a Cabal of Friends to the Earl of Strafford sent down post unto him into York-shire to acquaint him, that they apprehended a Design against him

in the making of this Committee, and left it to his own Election, whether he would stay still on the Head of his Army, or come up to the Parliament. But if he did incline to come up, that he would, at his first appearance, Impeach some Members of both Houses (if he had Evidence for the same) of being privy to the bringing the *Scotch* Army into this Kingdom, and told him, It was his wisdom to begin first, and not to be first Impeached, as the Earl of *Bristol* was by the great Duke of *Buckingham*. The said Earl, upon the receipt of this Advertisement, suddenly resolved to come up and abide the Test of Parliament. But his Friends, then with him in the *North*, told him, That his frank appearance would make Politicians doubt, whether he did thereby assume his Judgment and wanted Prudence, to go thus from his Army to the Parliament, where his Wisdom could not but know, that the *Scots* and *Scotizing-English* had resolved his destruction, and therefore (said they) unto him, It were better to keep under the safe-guard of the *English* Army, at his Command, (from which he had acquired some affection) or retire to the Army in *Ireland*, then being also at his Devotion, or take Sanctuary in some Forreign Parts, till fair weather might invite him home, neither (said they) would Discretion Vote it a betraying of his Innocency to decline a Trial, whereby the means of Factions raised in *England* and *Scotland* by his malicious Prosecutors, and backed with Power, his Innocency could not protect him. They further told him, that if Sentence should pass against him for Non-appearance, yet he had kept his freedom till better times, when he might have occasion to do His Master better Service abroad, than in Council at *White-hall*.

But the said Earl conceiving he had got good Evidence in the *North*, that the *Scots* came in by Invitation and Confederacy, between the Heads of the Covenanters and some of the *English* Members of both Houses, and having digested such his Intelligence almost into the form of an Impeachment, he posted up with the same, intending to present it to the House of Peers, as soon as he arrived there. But on *Wednesday, Nov. 11th* the House of Commons being acquainted by a Member, that there was a business of great weight to be imparted, desired the House that the Lobby without might be first cleared, and the Key of the House brought up to the Table, which was done accordingly; and as the House had entred into debate about the Earl of *Strafford*, there came a Message from the Lords by the Lord Chief Justice *Bramston*, and Judge *Foster*, That the King had commanded the Lords Commissioners, who were appointed to Treat with the *Scots* Commissioners at *Rippon*, to give an Account to both Houses of Parliament of that which passed there and at *Tork*, and thereupon the Lords desire there may be a meeting, by a Committee of both Houses this Afternoon in the *Painted-Chamber* at Three of the Clock, if the occasions of this House will give leave.

At this time many Members of the House conceived this Message was now sent, to get Intelligence, what private debate was in hand; The House of Commons returned this Answer by the same Messengers, That at this time they were in Agitation of very Weighty and Important Affairs, and therefore they do doubt they shall not be ready, to give them a meeting this Afternoon, as the Lords desire, but as soon as they may, they will send an Answer by Messengers of their own.

After the Messengers were withdrawn, the House proceeded in the Debate they were in before, and appointed a Committee to prepare matter upon the said Debate, for a Conference with the Lords, concerning the Earl of *Strafford*, and named seven Members, *viz.*

Mr.

Mr. Pym,
Mr. Stroud,
Mr. St. John,
Lord Digby,

Sir John Clotworthy,
Sir Walter Earle, and
Mr. Hampden.

Which select Committee retired immediately into the Committee-Chamber, to prepare Matter of a Conference to be prayed with the Lords, and a Charge against the Earl of *Strafford*.

The said Committee presently returned to the House, and reported the Matter to them referred; Whereupon it was Resolved upon the Question, That a Message be sent from this House to the Lords, in the Name of this House, and of all the Commons of *England*, to accuse *Thomas Lord Wentworth*, Earl of *Strafford*, Lord Lieutenant of *Ireland*, of High Treason, and to desire that he may be Sequestred from Parliament, and be Committed to Prison; and that within some convenient time this House will resort to their Lordships with particular Accusations and Articles against him.

Resolved to
Accuse the E.
of *Strafford* of
High Treason.

Mr. Pym went up with this Message to the Lords, and at his Return made this Report to the House.

That he had Repaired to the Lords, and there, in the Name of this House, and of all the Commons of *England*, did Accuse the said Earl of *Strafford* of High Treason, and that he had also delivered the other Particulars he had in Charge. Their Lordships Answer was, That they do desire to take this weighty Matter into their serious Consideration, and will speedily send an Answer by Messengers of their own.

Report of the
Message of
High Treason.

Afterwards Mr. Pym was sent up to the Lords, with a Message that some fit course be taken, that there may be free Passage between *England* and *Ireland*, notwithstanding any Restraint made there to the contrary.

The same day came a Message from the Lords by the two Chief Justices, That the Lords have taken into serious Consideration, the Accusation sent from this House against the Earl of *Strafford*, and have Sequestred him from the House, and have Committed him in safe Custody to the Messenger of their House, and they will move his Majesty, that the Passage from *Ireland* into *England* may be open, notwithstanding any Restraint made there to the contrary.

Message of Se-
questration of
E. of *Strafford*.

The Message delivered by Mr. Pym was in manner following:

My Lords, The Knights, Citizens and Burgeses now Assembled in the Commons House of Parliament, have received Information of divers Traiterous Designs and Practices of a great Peer of this House, and by vertue of a Command from them, I do here in the Name of the Commons now Assembled in Parliament, and in the Name of all the Commons of *England*, Accuse *Thomas Earl of Strafford*, Lord Lieutenant of *Ireland*, of High Treason: And they have Commanded me further to desire your Lordships, that he may be Sequestred from the Parliament, and forthwith committed to Prison. They further Commanded me to let you know, that they will within a very few days resort to your Lordships with the particular Articles and Grounds of this Accusation.

The Earl being required to withdraw, it was debated by the Peers, Whether he should be Imprisoned on a general Accusation, without any particular act of Treason charged against him or not? But upon the question it was carried in the Affirmative, and he being called in, kneeled at the Bar; and after standing up, the Lord-Keeper spake to him as followeth:

The Lord
Keeper to the
E. of Strafford.

My Lord of *Strafford*, The House of Commons, in their own Name, and in the Name of the whole Commons of *England*, have this day Accused your Lordship to the Lords of the Higher House of Parliament of High Treason, the Articles they will in a few days produce; in the mean time they have desired of my Lords, and my Lords have accordingly Resolved, That your Lordship shall be committed into safe Custody to the Gentleman-Usher, and be Sequestred from the House, till your Lordship shall clear your self of the Accusations that shall be laid against you. And thereupon he was immediately taken into Custody by *James Maxwell*, Usher of the Black Rod.

Thursday, Novemb. 12th, 1640.

Message from
the Lords.

A Message came from the Lords by the Lord Chief Justice *Littleton*, and the Lord Chief Baron *Davenport*:

Conference,
that Ports of
Ireland shall be
open.

That the Lords have Commanded Us to let You know, that in pursuit of your desire Yesterday, to have the Ports open between *Ireland* and *England*, some of the Lords had moved His Majesty in it, and it shall be done speedily and effectually.

This day the House fell into serious Debate concerning Sir *George Ratcliff*, an Intimate of the Lord Lieutenants of *Ireland*, in whom he reposed great Trust and Confidence, and by the discourse was as if he were guilty of High Treason, in endeavouring to subvert the Fundamental Laws, and that he did joyn with the Earl to bring in an Army from *Ireland* into this Kingdom, and had joined with the said Earl to use Regal Power, and to deprive the Subjects of this Kingdom of their Liberties. It was moved, that he might be sent for over; as also for Sir *Robert King*, who is a material Witness against the Earl of *Strafford*. But for as much as they were Members of the Parliament then sitting in *Ireland*, it was referred to a Committee, viz.

Committee
how to send
for Sir *George*
Ratcliff.

Mr. *St. Johns*,
Mr. *Selden*,
Mr. *Jeofrey Palmer*,
Mr. *Solicitor*,

Mr. *Maynard*,
Mr. *Grimston*,
Mr. *Chadwell*.

Which Committee had Power to consider what was fit to be done in sending for Sir *George Ratcliff*, and Sir *Robert King*, in regard they are Members of the said Parliament now sitting in *Ireland*, and to present it to the Consideration of this House, and are to meet to morrow Morning at Seven of the Clock in the Committee-Chamber.

Mr. Speaker
to sit at the
Grand Com-
mittee for
Irish Affairs.

Ordered, Mr. Speaker be intreated to be here this Afternoon, to sit by, at the Great Committee for *Irish* Affairs, and if there be Cause, to resume the House.

And

And accordingly the Grand Committee of the whole House sate this Afternoon upon the *Irish* Affairs, and the Speaker sate by, according to Order. There came word that the Lords were come, and expected the Committee of this House at the Conference; concerning the Proceedings at the great Council at *York*. Mr. Speaker assumed the Chair, and it was moved, That the Committees that sate in other places, might be sent for to attend the Conference; that those Gentlemen might be sent for by the Mace that were gone before to the Conference.

The House rose, and the Committee went up to meet the Committee of the Lords at the Conference; and Mr. Speaker adjourned the House, and went home.

Friday, Novemb. 13th, 1640.

Ordered, that the Committee for preparing the Charge against the Lord Lieutenant, being now *Sine die*, meet this Afternoon at Four of the Clock in the Treasury-Chamber, which Committee has Power to receive all such Petitions and Papers, as may conduce to the business, and have likewise Power to send for Records, Papers, Parties, and Witnesses, or any other thing that they shall think may conduce to the perfecting that Charge.

The King's Solicitor Reported from the Committee appointed to consider of the manner of sending for Sir George Ratcliff and Sir Robert King, being, as is inform'd, Members of the Parliament in *Ireland*.

That the Committee were of Opinion, That it is better to examine this Matter, according to the Rules and Foundations of this House, than to rest upon scattered Instances: They distinguished between the Case of Sir George Ratcliff and Sir Robert King thus, We find an Information given (which if it be true) of High Treason against Sir George Ratcliff, then there is no doubt, but in Case of High Treason, Priviledge of Parliament neither here nor there doth reach to protect him, but that Sir George Ratcliff may be sent for, though a Member in Parliament there; this was the Opinion of the Committee.

For the other, Sir Robert King, the Case did differ, for to send for him to testifie in any Case, were of dangerous Consequence; or to send for him to testifie in the *Kings Bench* in Case of Treason, where the Court doth ordinarily sit; but this Case differs between sending for a Member of Parliament to give Evidence in any ordinary thing, or in any ordinary Court, for the Parliament is a Court that doth not ordinarily sit, a Court of the great Affairs of the Kingdom; therefore to be sent for hither to this High Court, and to testifie in a Case of the highest Nature, in case of Treason informed of against Sir George Ratcliff, We did conceive it to be no breach of Priviledge of Parliament that he should be sent for, and if the House require of us our Opinions concerning the manner of sending for him, we shall tell you what we conceive of it.

Which Report being made, It was Resolved upon the Question:

That Sir George Ratcliff shall be forthwith sent for, to answer the Information that is Charged against him here of High Treason.

Resolved upon the Question, That Sir Robert King shall forthwith be sent for hither, as a Witness to testifie in case of High Treason.

Mr. Solicitor likewise offered, from the Committee, to the Consideration of the House, two Orders, which were read, *in hac verba*, and by Vote Ordered accordingly, *viz.*

Irish Affairs.

Committee concerning the Earl of Strafford.

Message from the King.

Message to the Lords for a Committee to examine Witnesses.

Message to the Lords for a Committee to examine Witnesses.

Approbation of the Lords Petition for a Parliament.

Resolutions thereupon.

Petition to be entered.

It

Sir Robert King
to be sent for.

It is Ordered by this House upon the Question, That Sir *George Ratcliff* being, as is informed, a Member of the Parliament in *Ireland*, because there is an Information in this House of High Treason against him, shall be forthwith sent for, and brought hither in safe Custody, no Priviledge of Parliament extending to this Case.

Ordered two Messengers to be sent with these Orders, and each Messenger to have Copies of both the Orders.

Expedition.

It was likewise Offered from the Committee, That the Honourable Persons, near the Chair, would beseech His Majesty, that He would be pleased to give such Directions, as in His Wisdom He shall think fit for the more Expedition sending for these Parties. Mr. Treasurer delivered this Message to His Majesty.

Saturday, November 14th, 1640.

Mr. Treasurer
Reports the
Message from
the King.

Mr. Treasurer after he had read out of a Paper, the Message which Yesterday the House desired him to deliver to His Majesty : Declared, that he had acquainted the King therewith, who, this morning, hath given Order to Mr. Secretary *Windebank*, who deals for the Affairs into *Ireland*, to make instant Dispatch to the Deputy there, that all Expedition be done according to the Message. Secondly, Concerning the three Letters desired by my Lord *Mountnorris*; they were procured by Mr. Secretary *Cook*, who was imployed about the Affairs for *Ireland* at that time, that he is now in the Country in *Darbyshire*; His Majesty will take some time to be informed in this, and no time shall be lost, and there shall be an Account given.

Wednesday, November 18th, 1640.

No Member to
visit the Earl
of Strafford
without leave.

Ordered that no Member of this House shall visit the Earl of *Strafford*, during the time of his Restraint, without Licence first obtained from the House.

Message to the
Lords for a
Committee to
examine Wit-
nesses.

Ordered a Message be sent to the Lords, to desire them, that they would please to appoint a Committee of a very few, that in the presence of some of this House might take such Depositions, and examine such Witnesses as they should name upon Interrogatories and Questions, as shall be presented to them by Order of this House concerning the Earl of *Strafford*, and the Interrogatories, Testimonies, and Witnesses to be kept private, until the Charge be made full and perfect.

Ordered that Mr. *Pym* go up with this Message, accompanied with so many as shall be pleased to go.

Approbation
of the Lords
Petitioners for
a Parliament.

Then the House fell into Debate, concerning those Lords who petitioned the King for a Parliament to be called: Whereupon it was Resolved upon the Question, That those Lords which were Petitioners to His Majesty at *York*; in their Petition, a Copy whereof was here now read, have done nothing but what was Legal, Just, and Expedient for the good of the King and Kingdom, and is now approved by the whole body of the Commons.

Petition to be
Entred.

Resolved upon the Question, That the Copy of the Petition now read, and formerly preferred by the Lords to His Majesty at *York*, shall be here Entred.

Thursday,

Thursday, November 19th, 1640.

It is Ordered, That if occasion shall be for the examination of any Members of this House in the business concerning the Earl of *Strafford*, they shall be ready upon Notice, to be examined upon Oath. It is likewise Ordered, That upon the Message to be sent from this House, the Lords be desired to make the like Order for the Members and Assistants of their House, and to desire their Lordships, that if occasion be, that any Privy-Counsellors be produced as Witnesses, they will take such course as in their Judgments they shall think fit, that they may be examined.

Speedy examinations against the Earl of *Strafford* by Members of both Houses.

This Message to be sent to morrow morning, by the Messengers formerly sent.

Mr. *St. Johns*,
Mr. *Palmer*,
Mr. *Glimer*,
Mr. *Selden*,
Mr. *Grimstone*,

Mr. *Maynard*,
Sir *Simond D'ewes*,
Mr. *Whistler*,
Mr. *Thomas Widington*,
Mr. Solicitor.

Committee to search Attainders.

This Select Committee, or any two of them, are appointed to search the Record of Attainder in the *Kings Bench*, in such manner, and at such time, as they shall think fit, for the furtherance of the Charge in hand against the Earl of *Strafford*.

Friday, November 20th, 1640.

Mr. *Whistler* Reported from the Committee for *Irish* Affairs, That he is required, by the Committee, to Report to the House the Affairs of that Kingdom, as they were set forth in a Remonstrance, made by the House of Commons in this present Parliament in *Ireland*, wherein it appeared that Trading was destroyed, Industry disheartned, new and unlawful Impositions were Imposed, the Arbitrary Determinations of all Causes for Goods, Land and Possessions, by Petitions, and Act at Council-Table where no Writ of Error can lie, and the King loseth a Fine upon the Original Writ thereby: That His Majesties Gracious Inclination for the good of that Kingdom is kept from them: That there is a Monopoly of the sole Trade of Tobacco, of more gain to the Parties interested therein, than the King's whole Revenue in *Ireland*. The destroying of the Plantation of *London-Derry*; The Exorbitant Power of the High Commission, which cryeth loud in all the three Kingdoms: The Proclamation forbidding any to depart thence for *England* without Licence, and pay dear for it: The many Subsidies given, and Monies raised for the King, and still he is in Debt, and therefore demands an account of His Treasure, and desires present Redress, or Access to His Majesty.

Report Irish Remonstrance.

A Copy of the Remonstrance was delivered in, under the Hand of the Clerk of the Parliament there, and was read, and shall be entred, if so Ordered.

That the Secretaries there, Mr. *Slingsby* and Mr. *Little*, be required to send hither the Book of Entries of the several Petitions presented to the late Lord Deputy, now Lord Lieutenant of *Ireland*, and the several Orders and Proceedings thereupon made.

Book of Petitions sent for over.

That

Warrants for
Taxes upon
Tobacco.

Entries of Im-
positions.

That Mr. *Little* the younger and Mr. *Carpenter*, who have the Monopoly for Tobacco, be required to send hither those Warrants by which they demand, and have laid those Taxes upon Tobacco.

That the several Affairs of the Custom-House and Ports, (*viz.*) *Dublin, King'sale, Youghall, Waterford, Corke, Galloway, Carrick-Fergus, and Bangor* be required to send hither their Books of Entries, whereby the Impositions laid upon several Commodities, may appear; there were several Warrants issued forth according to this Order, and sent away.

Post Merid.

The Articles offered by a Member of this House against the Earl of *Strafford* are referred to the Committee, that are to draw up the Charge against the said Earl, which being Reported, were as followeth: •

Articles of the Commons assembled in Parliament against Thomas Earl of Strafford, in maintenance of his Accusation, whereby he stands Charged of High Treason.

Articles a-
gainst the Earl
of *Strafford*.

1. That he the said *Thomas*, Earl of *Strafford*, hath traiterously endeavoured to subvert the Fundamental Laws and Government of the Realms of *England* and *Ireland*, and in stead thereof, to introduce an Arbitrary and Tyrannical Government against Law, which he hath declared by traiterous words, Counsels, and Actions, and by giving His Majesty Advice, by force of Arms, to compel his Loyal Subjects to submit thereunto.

2. That he hath traiterously assumed to himself Regal Power over the Lives, Liberties, Persons, Lands, and Goods of His Majesties Subjects in *England* and *Ireland*, and hath exercised the same Tyrannically, to the subversion and undoing of many, both of Peers and others of His Majesties Liege People.

3. That the better to enrich and inable himself to go through with his traiterous Designs; he hath detained a great part of His Majesties Revenue, without giving Legal account; and hath taken great Sums out of the Exchequer, converting them to his own Use, when His Majesty wanted Money for His own urgent Occasions, and His Army had been a long time unpaid.

4. That he hath traiterously abused the Power and Authority of his Government, to the encreasing, countenancing, and encouraging of Papists, that so he might settle a mutual Dependence and Confidence betwixt himself and that Party, and by their help prosecute and accomplish his malicious and tyrannical Designs.

5. That he hath maliciously endeavoured to stir up Enmity and Hostility between His Majesties Subjects of *England*, and those of *Scotland*.

6. That he hath traiterously broke the great Trust reposed in him by His Majesty, of Lieutenant-General of His Army, by wilful betraying divers of His Majesties Subjects to death, his Army to a dishonourable Defeat by the *Scots* at *Newborne*, and the Town of *New-Castle* into their hands, to the end, that by the effusion of blood, by dishonour, and so great a loss as that of *New-Castle*, His Majesties Realm of *England* might be engaged in a National and irreconcilable Quarrel with the *Scots*.

7. That

7. That to preserve himself from being questioned for those and other his traitorous Courses, he laboured to subvert the Right of Parliaments, and the ancient course of Parliamentary Proceedings, and by false and malicious Slanders, to incense His Majesty against Parliaments. By which Words, Counsels, and Actions, he hath traiterously, and contrary to his Allegiance, laboured to alienate the Hearts of the King's Liege People from His Majesty, to set a Division between them, and to ruine and destroy His Majesties Kingdoms, for which they Impeach him of High Treason against our Sovereign Lord the King, His Crown and Dignity.

8. And he the said Earl of *Strafford* was Lord-Deputy of *Ireland*, and Lieutenant-General of the Army there, viz. His most Excellent Majesty, for His Kingdoms both of *England* and *Ireland*, and the Lord President of the *North*, during the time that all and every the Crimes and Offences before set forth were done and committed; and he the said Earl was Lieutenant-General of all His Majesties Army in the North parts of *England*, during the time that the Crimes and Offences in the fifth and sixth Articles set forth were done and committed.

9. That the said Commons by Protestations, saving to themselves the liberty of Exhibiting at any time hereafter any other Accusation or Impeachment against the said Earl; and also of replying to the Answers that he the said Earl shall make unto the said Articles, or to any of them, and of offering Proofs; also of the Premises, or any of them; or any other Impeachment or Accusation that shall be exhibited by them, as the Cause shall, according to the course of Parliaments, require, do pray that the said Earl may be put to Answer for all and every of the Premises, that such Proceedings, Examinations, Trials and Judgments may be upon every of them, had and used as is agreeable to Law and Justice.

Tuesday, November 24th, 1640.

These Articles thus Resolved upon by Question, were by another Question Ordered to be engrossed against to morrow Morning, and no Copies to be delivered of them in the Interim; and the same Committee that prepared the Charge is to draw up the Interrogatories, and Mr. *Pym* is to go up to the Lords with the Charge.

Articles to be engrossed.

Wednesday, November 25th, 1640.

Lord *Digby* went up with this Message to the Lords:

That this House desires a Conference with their Lordships, by a Committee of both Houses, concerning the Articles to be Exhibited against the Earl of *Strafford*.

Conference concerning the Earl of *Strafford's* Articles.

Lord *Digby* brings Answer, That their Lordships have Considered the Message, and desire to meet a Committee of that House, with a Committee of theirs, presently in the Painted-Chamber.

The ingrossed Articles were again openly read in the House, and agreed to be sent up to the Lords by Mr. *Pym*, by a Vote upon the Question.

Articles ingrossed.

Mr. *Pym* before he went, made a short Declaration of the substance of that he intended to deliver unto the Lords, both before and after the delivery of the Articles.

Mr. *Pym* gets leave to speak.

C

Mr.

Mr. Pym Reports the Conference.

Mr. Pym's Report of the Conference with the Lords, in delivering up the Articles against the Earl of *Strafford*, that he attended the great Committee of this House, and, in their presence, delivered to the Committee of the Lords House the Charge against the Earl of *Strafford*, and if any thing passed him through weakness, or disability, he desires the excuse of this House.

Thank's to Mr. Pym.

It was moved, that Mr. Pym might have Thanks for his well delivery of the Charge against the Earl of *Strafford*.

Friday, November 27th, 1640.

Message for a Conference.

A Message from the Lords by Justice *Littleton* and Justice *Bartley*.
The Lords desire a Conference by a Committee of thirty of their House, with a proportionable number of this House, concerning the Message that was brought unto them by Mr. Pym, touching the Examination of their Members, in the Accusation of the Earl of *Strafford*, and desire a free Conference touching the last Point of that Message, that some of the Members of this House should be present at the Examination, and they desire it this morning in the Painted-Chamber, if it may stand with the conveniency of this House.

Answer.

Answer returned by the same Messenger, That this House has taken into Consideration their Lordships Message, and will in Convenient time return Answer by Messengers of their own.

Saturday, November 28th, 1640.

Mr. Whistler's Report from the Committee for Irish Affairs.

Mr. Whistler Reports from the Grand Committee for *Irish* Affairs, that there are many Petitions, and full of matter of Complaints of the proceedings in *Ireland*, and Suitors here for Justice. There are many Petitioners here whose Estates are so exhausted, that they are scarce able to bring Witnesses from *Ireland* hither; many great Persons of Quality and Trust are in *Ireland*, material Witnesses to be examined, as the Master of the Rolls, the Lord Chancellor, and others; these can hardly be spared, to come hither, to give their Testimony. The Committee desires the Advice of the House in this particular (which without their Judgments cannot be determined) to think of some way how these Parties might have their Testimony taken, and the Truth might be known, and Justice done. This whole matter thus Reported from the Committee for *Irish* Affairs, is recommitted to the same Committee again to consider of it, and to draw those things that are to be inquired of under apt Heads, and so present them to the judgment of this House to proceed accordingly.

Mr. Maynard,
Mr. St. Johns,
Mr. Hide,
Mr. Whistler,

Mr. Jeofrey Palmer,
Mr. Glyn,
Mr. Solicitor.

This Committee is to Collect and Offer to this House, Reasons for this House to make use of, and insist upon, in maintainance of that Point of the Message of this House to the Lords, which desires the presence of some of the Members of this House, at the Examination of such Witnesses, as shall be Proposed by this House in the Accusation of the Earl of *Strafford*.

To

To the Right Honourable the Lord-Deputy.

*The Humble and just Remonstrance of the Knights, Citizens, and Burgeses
of the Parliament assembled.*

SHEWING,

That in all Ages since the happy Subjection of this Kingdom to the Imperial Crown of *England*, it was, and is a Principal Study, and Princely Care of His Majesty, and His Noble Progenitors, Kings and Queens of *England* and *Ireland*, to the vast Expence of Treasure and Blood; that their Loyal and Dutiful people of this Land of *Ireland*, being now, for the most part, derived from *British* Ancestors, should be Governed according to the Municipal and Fundamental Laws of *England*, that the Statute of *Magna Charta*, or the Great Charter of the Liberties of *England*, and other Laudable Laws and Statutes, were in several Parliaments here Enacted and Declared, That by the means thereof, and of the most Prudent and Benign Government of His Majesty, and His Royal Progenitors, this Kingdom was, until of late, in its growth a Flourishing Estate, whereby the said people were heretofore enabled, to answer their humble and natural desires, to comply with His Majesties Princely and Royal Occasions, by their free Gift of 150 Thousand Pounds Sterling; and likewise by another free Gift of 120 Thousand Pounds more, during the Government of the Lord Viscount *Faulkland*, and after by the Gift of 40 Thousand Pounds; and their free and chearful Gift of Six intire Subsidies in the 10th Year of His Majesties Reign, which, to comply with His Majesties then Occasions, signified to the then House of Commons, They did allow should amount, in the Collections, unto 250 Thousand Pounds (although, as they confidently believe) if the Subsidies had been levied in a moderate Parliamentary way, they would not have amounted to much more than half the Sum aforesaid, besides the four intire Subsidies granted in this present Parliament. So it is, May it please Your Lordship, by the occasion of the insuing, and other Grievances and Innovations (though to His Majesty no considerable Profit) this Kingdom is reduced to that extream and universal Poverty, that the same is less able to pay Subsidies than it was heretofore, to satisfie all the before recited great Payments: And His Majesties most Faithful people of the Land do conceive great fears, that the said Grievances and Consequences thereof, may be hereafter drawn into Presidents, to be perpetuated upon their Posterity, which in their great Hopes, and strong Beliefs, they are perswaded is contrary to His Royal and Princely intention towards His said people; some of which said Grievances are as followeth:

1. The general apparent decay of Trades, occasioned by the new and illegal raising of the Book of Rates and Impositions upon Native, and other Commodities, Exported and Imported, by reason whereof, and of extream Usage and Censures, Merchants are beggered, and both disinabled and discouraged to Trade, and some of the honourable Persons who gain thereby, are often Judges and Parties, and that in the conclusion His Majesties Profit thereby is not considerably advanced.

2. The Arbitrary decision of all civil Causes and Controversies, by paper Petitions, before the Lord Lieutenant and Lord Deputy, and

infinite other Judicatories upon reference from them, derived in the nature of all Actions determinable at the Common Law, not limited into certain time, cause, season, or thing whatsoever: And the consequences of such proceedings, by receiving immoderate and unlawful Fees, by Secretaries, Clerks, Purse-vants, Serjeants at Arms, and otherwise, by which kind of proceedings His Majesty loseth a considerable part of his Revenue upon Original Writs, and otherwise; and the Subject loseth the benefit of his Writ of Error, Bill of Reversal, Vouchers, and other legal and just Advantages, and the ordinary Course and Courts of Justice declined.

3. The proceedings in civil Causes at Council-Board, contrary to the Law and great Charter, not limited to any certain time or season.

4. That the Subject is, in all the material parts thereof, denied the benefit of the Princely Graces, and more especially of the Statute of Limitations of 21 of *Jac.* granted by His Majesty in the Fourth Year of His Reign, upon great Advice of the Councils of *England* and *Ireland*, and for great Consideration, and then published in all the Courts of *Dublin*, and in all the Counties of this Kingdom, in open Assizes, whereby all Persons do take notice, That contrary to His Majesties Pious Intentions, His Subjects of this Land have not enjoyed the benefit of His Majesties Princely Promise thereby made.

5. The extrajudicial avoiding of Letters Patents of Estates, of a very great part of His Majesties Subjects, under the Great Seal (the Publick Faith of the Kingdom) by private Opinions, delivered at the Council-Board, without Legal Evictions of their Estates, contrary to Law, and without President or Example of any former Age.

6. The Proclamation for the sole emption and uttering of Tobacco, which is bought at very low Rates, and uttered at high and excessive Rates, by means whereof thousands of Families within this Kingdom, and of His Majesties Subjects in several Islands, and other parts of the *West-Indies* (as your Petitioners are informed) are destroyed; and the most part of the Coin of this Kingdom is ingrossed into particular Hands, in-somuch that your Petitioners do conceive that the Profit arising and ingrossed thereby, doth surmount His Majesties Revenue, certain or casual, within this Kingdom, and yet his Majesty receiveth but very little profit by the same.

7. The universal and unlawful encreasing of Monopolies, to the advantage of a few, the disprofit of His Majesty, and impoverishment of His people.

8. And the extream cruel Usage of certain late Commissioners, and other Stewards of the *British* Farmers and Inhabitants of the City and County of *London-Derry*, by means whereof the worthy Plantation of that Country is almost destroyed, and the Inhabitants are reduced to great Poverty, and many of them forced to forsake the Country, the same being the first and most useful Plantation in the large Province of *Ulster*, to the great weakning of the Kingdom in this time of danger; the said Plantation being the principal Strength of those parts.

9. The late Erection of the Court of High Commission, for Causes Ecclesiastical, in these necessitous Times; the proceedings of the said Court, in many Causes without legal Warrant, and yet so supported as Prohibitions have not been obtained, though legally sought for: And the excessive Fees exacted by the Ministers thereof, and the encroaching of

of the same upon the Jurisdiction of other Ecclesiastical Courts of this Kingdom.

10. The exorbitant Fees, and pretended Customs, exacted by the Clergy against the Law, some of which have been formerly represented to your Lordship.

11. The Petitioners do most heartily bemoan, that His Majesties Service and Profit are much more impaired than advanced by the Grievances aforesaid; and the Subsidies granted in the last Parliament, having much encreased His Majesties Revenue by the buying of Grants, and otherwise: And that all His Majesties Debts then due in this Kingdom, were satisfied out of the said Subsidies; and yet His Majesty is of late (as the Petitioners have been informed in the House of Commons) become indebted in this Kingdom in great Sums. And they do therefore humbly beseech, That an exact Account may be sent to His Majesty, how and in what manner His Treasure is issued.

12. The Petitioners do humbly conceive just and great fears, at a Proclamation published in this Kingdom, in *Anno Domini* 1635. prohibiting men of Quality or Estates to depart this Kingdom into *England*, without the Lord-Deputies Licence, whereby the Subjects of this Kingdom are hindred and interrupted from free access, to address to His Sacred Majesty, and Privy-Council of *England*, to declare their just Grievances, or to obtain Remedies for them in such sort, as their Ancestors have done in all Ages since the Reign of King *Henry* the Second, and great Fees exacted for every of the said Licences.

13. That of late His Majesties Attorney-General hath exhibited Informations against many ancient Burroughs of this Kingdom, into His Majesties Court of Exchequer, to shew cause by what Warrant the said Burgeses (who heretofore sent Burgeses to Parliament) should send the Burgeses to the Parliament, and thereupon, for want of an Answer, the said Priviledges of sending Burgeses was seized by the said Court, which Proceedings were altogether *Coram non Judice*, and contrary to the Laws and Priviledges of the House of Parliament, (and if way should be given thereunto) would tend to the Subversion of Parliaments, and by Consequence to the Ruine and Destruction of the Common Wealth.

And that the House of Commons hath hitherto, in this present Parliament, been deprived of the Advice and Counsel of many profitable and good Members by means thereof.

14. By the Powerfulness of some Ministers of State in this Kingdom, the Parliament in its Members, and Actions, hath not its natural Freedom.

15. And lastly, That the Gentry and Merchants, and other His Majesties Subjects of this Kingdom, are of late by the Grievances and Pressures before said, and other the like, brought very near to Ruine and Destruction: And the Farmers of Customs, Customers, Waiters, Searchers, Clerks of Unwarrantable Proceedings, Pursevants, and Goalers, and sundry others, very much enriched, whereby, and by the slow Redress of the Petitioners Grievances, His Majesties most Faithful and Dutiful People of this Kingdom do conceive great fears, that their readiness approved upon all occasions, hath not been of late rightly represented to His Sacred Majesty: For remedy whereof, the said Petitioners do humbly, and of right, beseech your Lordships, That the said Grievances and Pressures may be speedily Redressed; and if your Lordship shall not think fit to afford present Relief, that your Lordship might admit a Select Committee of

of this House, of Persons uninteressed in the benefit arising of the aforesaid Grievances, to be Licenced by your Lordship, to repair to His Sacred Majesty in *England*, for to pursue the same, and to obtain fitting remedy for their aforesaid and other just Grievances and Oppressions; and upon all just and honourable Occasions, they will, without respect of particular Interest or Profit to be raised thereby, most humbly and readily in Parliament extend their utmost endeavour to serve His Majesty, and comply with His Royal and Princely Occasions, and shall pray, &c.

Monday, November 30th, 1640.

A Committee to meet a Committee of the House of Lords about the Examination of Witnesses, in the Case of the E. of *Strafford*.

Sir Thomas Roe,
Mr. Pym,
Mr. Strode,
Mr. St. Johns,
Mr. Grimston,
Lord Digby,
Sir John Clotworthy,
Sir Walter Earle,
Mr. Hampden,
Mr. Maynard,
Mr. Hyde,
Mr. Whistler,
Mr. Palmer,
Mr. Glyn,
Mr. Solicitor,
Mr. Selden,
My Lord Dungarvan,
Sir Francis Seymor,
Sir Hugh Cholmely,
Lord Wenman,
Sir Jo. Evelyn,
Sir Benjamin Rudyard,
Sir James Thynn,
Sir John Culpepper,
Sir John Strangwaies,
Sir Symon D'Ewes,
Mr. George Vane,
Lord Cramborne,
Lord Compton,
Mr. Bellassis,

Mr. Kirton,
Sir Thomas Hutchison,
Sir William Bowyer,
Sir James Smith,
Sir Arthur Ingram,
Lord Russell,
Lord Ruthin,
Mr. Comisby,
Mr. Noel,
Sir Thomas Bowyer,
Mr. Cecil,
Lord Fairfax,
Sir Thomas Widdrington,
Sir Peter Hayman,
Sir John Holland,
Mr. James Fynes,
Sir Robert Crane,
Sir John Corbet,
Mr. Jo. Alford,
Sir Roger North,
Sir Edmond Mountford,
Mr. Whitlocke,
Mr. Mountague,
Lord Faulkland,
Sir Peter Stapleton,
Sir Henry Mildmay,
Lord Herbert,
Sir Richard Wynn,
Sir Edward Rodney,
Sir Ralph Hopton,

This Committee is to meet with the Committee of 30 of the Lords, concerning a Message sent hither on *Friday* last from their Lordships, touching a Message sent formerly from this House to them by Mr. Pym, for the Examination of their Members, in the Accusation of the Earl of *Strafford*, and touching a free Conference upon the last Point of that Message, that some of the Members of this House should be present at the Examination of Witnesses, to be propounded by this House, to be examined in the Accusation of the Earl of *Strafford*.

The

The Petition of several of the Knights, Citizens, and Burgesſes of the Commons Houſe of Parliament in *Ireland*, whoſe Names are underwritten, directed to the whole Houſe of Commons in *England* read.

Petition from the Parliament in *Ireland* read.

The Humble Petition of the Knights, Citizens, and Burgesſes of the Commons Houſe of Parliament in *Ireland*, whoſe Names are underwritten: To the King's moſt Excellent Maſteſty read.

The two Gentlemen, Mr. *Jo. Bellewe* and Mr. *Oliver Caſtle*, who brought over thoſe Petitions were called in, and demanded by Mr. Speaker ſeveral Queſtions.

Theſe Gentlemen were again called in, and Mr. Speaker told them:

This Houſe has taken into Conſideration your Petition, and in due time you ſhall know the Pleaſure of this Houſe.

Ordered, That the Lieutenant of the Tower be required from this Houſe, that he do not ſuffer Sir *George Ratcliff* to ſpeak with the Earl of *Strafford*, a Priſoner there, until further Order be given from this Houſe, nor ſuffer any Meſſage or Letter to be ſent from Sir *George Ratcliff* unto him; or if any ſuch be, to give Notice of it to this Houſe, Sir *George Ratcliff* being already ſent for, by Order of this Houſe, upon an Information of High Treason.

Sir *George Ratcliff* not to ſpeak with, or write to the E. of *Strafford*.

Reſolved upon the Queſtion, That the Earl of *Craford's* Troop, and thoſe other Officers in the Army, that go under the Name of *Reformadoes* are unneceſſary Charge, and fit to be ſpared; and that my Lord General be moved by Meſſage from this Houſe thereunto.

A Troop of Reformado Officers in the Army to be diſbanded.

Reſolved, That thoſe Companies, or other Officers, that ſhall be thus Caſhier'd by the Lord General, ſhall be paid to the Eighth of *December* next.

Tueſday, December 1. 1640.

A Meſſage from the Lords by Baron Trevor and Judge Bartley.

The Lords have ſent Us to this Houſe, to deſire a preſent Conference in the Painted Chamber, with the ſame Committee that was concerning the matter of the free Conference Yeſterday.

A Meſſage for a Conference for ſome of the Members to be preſent at the Examination of Witneſſes.

Answer returned by the ſame Meſſengers.

This Houſe has taken into Conſideration the Meſſage of the Lords, and they return this Answer, That they will give a meeting preſently, as is deſired.

Mr. *Pym* Reports from the Conference this day, That the Lords Committee, with whom we had a free Conference Yeſterday, took the Matter into Conſideration, and their Reſolution is:

Mr. *Pym's* Report.

That ſuch Members of the Houſe of Commons, as they ſhall make choice of, ſhall be preſent from time to time at the preparatory Examinations concerning the Earl of *Strafford*.

The Lord Keeper expected we ſhould ſay ſomething. We told them, We had no Warrant; for a Conference was deſired concerning the matter of free Conference, and that a free Conference was not deſired; the Queſtion they would have been ſatiſfied in, was, Whether we did intend to have the Examinations taken publick in the Houſe, or by a private Committee? I answered, We had no Commiſſion for a free Conference.

The ſame Committee that were appointed to draw up the Charge againſt the Earl of *Strafford*, are to be preſent at the Preparatory Examinations of

of Witnesses before the Lords, to present such Questions unto the Lords as they shall think fit thereupon; and after a full Examination, to present the whole state of the business to this House.

A Message by the Commons.

A Message to be sent to the Lords, to acquaint them that the House is ready, by some Members of this House, to present divers Witnesses to be examined, and such questions as they shall desire that those Witnesses so propounded by them may be all examined one after another, with speed and secrecy.

Sir George Ratcliff to come in by a day.

Thursday morning is peremptorily appointed for Sir George Ratcliff to appear here, and if he come not then, a Message is to be sent to the Lords, to desire them to move His Majesty for a Proclamation to be ordered against him, to bring him in.

Power is given to the Committee that is to be present at the preparatory Examination of Witnesses before the Lords, to summon such Witnesses to be examined to morrow as they shall think fit.

Mr. Maynard's Report from the Conference Yesterday.

A Report of the Conference for the Lords Members to be examined.

The Lords said, They had taken the Message into Consideration sent by Mr. Pym, some things were Resolved, others not, and for that purpose desired a free Conference; whereas we did desire to examine some Members of this House, they were ready to examine them when we should require. They answered, That the Peers of their House that shall be desired, and all the Assistants of that House, when they shall be thereunto required, shall be examined upon Oath; and next for the time and secrecy, They said they should be speedily examined, and Examinations secretly kept.

Thursday, December 3. 1640.

Another Message concerning Members to be present at the Examination.

A Message brought from the Lords by my Lord Chief Justice Littleton and Judge Bartley, That according to a desire of this House, by a late Message, they have deputed certain of their Members to take the Examination of Witnesses in the Case of the Earl of Strafford, which they will be ready to perform in the presence of such Members of this House, as shall be deputed to that purpose.

Ordered, That the Earl of Kildares Petition, presented to the Grand Committee for Irish Affairs, be referred to the Sub-Committee for those Affairs.

Friday, December 4. 1640.

Ordered, That those Members of this House, that be appointed to be present at the preparatory Examinations before the Lords, be required to declare that by their Duty they owe to this House, they are obliged to keep all those Examinations secret.

A Protestation of Secrecy.

Those Eight appointed for that Service did make all of them Protestations to that purpose.

Ordered, That those Eight, or any Four of them, may be present at the preparatory Examinations before the Lords.

Mr.

Mr. Selden,
Mr. Dutton,
Mr. Crew,
Sir Peter Hayman,

Sir Harbottle Grimston,
Sir Henry Anderson,
Sir Nevil Poole,
Sir Thomas Barrington.

Saturday.

The Petition of *Richard Heaton* and *Lyonell Farrington* were read, and *Farrington* called in, did avow his Petition; the Petitions are referred to the Committee appointed to draw up the Charge against the Earl of *Strafford* to make use of it, if they shall see Cause.

December 26th, 1640.

Ordered, That the Committee appointed to draw up the Charge against the Earl of *Strafford*, shall have Power to examine Witnesses concerning *Sir George Ratcliff*, and to prepare a Charge against him, and to present it to this House.

Tuesday, December 29th, 1640.

The Articles against Sir George Ratcliff Read.

Resolved upon the Question, That this House shall Accuse *Sir George Ratcliff* Knight, of High Treason, in the Name of all the Commons of *England*.

Articles against Sir George Ratcliff.

That these Articles thus Read, shall be the Ground of this Accusation.

That a Message shall be sent forthwith to the Lords, to Accuse *Sir George Ratcliff* Knight, of High Treason, in the Name of this House, and of all the Commons of *England*, and that very speedily they will bring Articles against him.

Resolved upon the Question, That the Articles prepared by the Committee against *Sir George Ratcliff*, and Read here, shall be engrossed against to morrow, to be sent to the Lords, as a Charge, against him.

A Message sent from the Lords by the Master of the Rolls and Judge Reeves.

A Message.

The Lords have Commanded Us to say to You, That whereas there came a Message from this House, to Accuse *Sir George Ratcliff* of High Treason; They would know, Whether they should presently take care to make safe his Person?

Answer returned by the same Messengers:

That this House has taken their Lordships Message into Consideration, and will forthwith return them Answer by Messengers of their own.

Mr. Pym went up to the Lords to acquaint them, that this day the House of Commons gave no Instructions to their former Messengers, concerning the Committing of *Sir George Ratcliff*, because his Person is already in safe Custody in the Gate-house, and they intended to have acquainted their Lordships with it, when they had produced the Articles against him, which would have been very shortly, but since they are prevented by their Lordships, they refer what to do in it to their Lordships.

Ratcliff.

D

Mr.

Mr. *Pym* brings Answer from the Lords of his Message, That concerning the safe Custody of Sir *George Ratcliff*, they had sent for him, and had taken Order in it, and touching the receiving of the Examinations in this Cause, there should be the same course observed in them as was in the Earl of *Strafford*.

Thursday, December 31. 1640.

The Articles against Sir *George Ratcliff*, by former Order ingrossed, were twice Read; And then it was Resolved upon the Question, That these Articles thus ingrossed and read, shall be sent up to the Lords by the Commons Assembled in Parliament, in maintenance of their Accusation of Sir *George Ratcliff*, whereby he standeth Charged of High Treason; And it is Ordered, That Mr. *Pym* go up with these Articles.

Resolved upon the Question, That a Message be sent forthwith to the Lords, to desire a Conference of both Houses, concerning Articles exhibited in maintenance of the Charge against Sir *George Ratcliff*.

Sir *John Strangways* went up with this Message.

It was moved, That the House would think of some Answer to the Lords, concerning the Charges against the Lord Archbishop of *Canterbury*, and the Earl of *Strafford*, delivered from the *Scottish* Commissioners, at a Conference by a Committee of both Houses.

Monday, January 4th, 1640.

Irish Army.

Ordered, That a Conference be desired with the Lords to morrow morning, concerning the state, the disorders and dangers of the new levied *Irish Army*, and to present them to their Lordships, and to desire them to join with the House in a Petition to His Majesty, for the disbanding of that Army. The Committee appointed for the Earl of *Strafford*'s business, are to prepare the Heads of this Conference; and the Members of this House are required to bring into this Committee, between this and to morrow morning, such Informations as shall come to their Hands conducing to these matters; Sir *Walter Earle* and Sir *John Clotworthy* are to manage this Conference.

It was likewise moved, That at this Conference, Considerations might be had of the great Resort daily made to the Earl of *Strafford*.

Mr. *Nathaniel Fines* is to go up to morrow morning with a Message to the Lords, to desire a Conference with their Lordships, concerning the Disorders and Inconveniences of the new levied *Irish Army*.

And to desire a free Conference concerning those Declarations presented by the *Scottish* Commissioners, against the Lord Lieutenant and the Lord Archbishop of *Canterbury*, as Incendiaries; Sir *Peter Hayman* to go up with this Message.

The Subject of his Conference to be, to present to the Lords, that it may be made known to the Lords Commissioners, that the *Scottish* Commissioners be desired to bring in their Proofs against the Lord Lieutenant, and the Lord Archbishop of *Canterbury*, to the end, the Parliament may proceed to Judgment.

Tuesday, January 12th, 1640.

Petitions referred to the Sub-Committee.

Ordered, That the several Petitions of Sir *Henry Wallop*, the Lord Viscount *Nettersfield*, be referred to the Sub-Committee, formerly appointed

pointed by the Grand Committee for *Irish* Affairs for the business of Sir Henry Wallop, because there is something in those Petitions that will materially conduce to the Charge of the Earl of *Strafford*.

Ordered, That the Committee appointed to prepare some fit way of Representing to the Lords the four *Irish* Causes formerly Reported here, (*viz.*) That of the Lord Mountnorris, the Lord Dillon, Lord Viscount Ely, and the Earl of Kildare do sit.

Friday, January 15th, 1640.

Ordered, That the Committee appointed to draw up the Charge against the Earl of *Strafford*, shall desire to have the Depositions that are yet sealed up, delivered unto them, and may add and insert such particular Instances, and other Circumstances, as they in their Discretions shall think fit to the several Articles delivered in Charge against the Earl of *Strafford*, according to the saving in the conclusion of those Articles, and that they present the whole matter to the House on Monday morning next.

Depositions concerning the Earl of *Strafford*.

Saturday, January 16th, 1640.

Mr. Pym went up to the Lords with a Message to this Effect :

To desire their Lordships, That those Examinations which, at the Request of this House, were taken, in the Case of the Earl of *Strafford*, by the Lords deputed to that purpose, may be delivered to the Commissioners of this House appointed to draw up the Charge against the Earl, that they may make use of them for the enlarging of their Charge, in particularities of Evidences, according to the Clause of Resolution in the conclusion of the said Charge ; and likewise to make a Declaration, That howsoever, by the Course of Parliament, this House might proceed with the Charge in general, yet to avoid all scruples, and to bring the business sooner to a conclusion, they do desire to conclude in this way.

A Message concerning Examinations.

Saturday, January 23. 1640.

Mr. Selden,	Mr. Whitlock,
Mr. Palmer,	Mr. Maynard.

By Order, are added to the Committee that are to draw up the Articles against the Earl of *Strafford*.

Thursday, January 28th, 1640.

The further Impeachment of Thomas Earl of *Strafford*, by the Commons Assembled in Parliament, was this day read.

The further Impeachment of the Earl of *Strafford*.

Friday, January 29th, 1640.

Ordered, That the Consideration of the Commission granted to the Earl of Worcester, and his eldest Son the Lord Herbert, and some Commissions by them granted to others, for the levying of Forces in the several Counties of England and Wales, and all the Circumstances depending thereupon, be referred to the Committee to draw up the Charge

against

against the Earl of *Strafford*, and to consider of the Magazine in Sir *Piercy Herbert's* Custody.

Saturday, January 30th, 1640.

The further Impeachment of *Thomas Earl of Strafford* was again read, and the Title of the Impeachment, and every Article, and the Conclusion, were every of them particularly put to the Question, and were every of them assented unto, and Resolved upon the Question: And afterwards it was Resolved upon the Question, That these Articles being engrossed, shall be forthwith sent up to the Lords.

Ordered, That Mr. *Hambden* go up with a Message to the Lords, to desire a Conference with their Lordships presently (if it may stand with their Lordships Occasions) by a Committee of both Houses, touching the further Impeachment of *Thomas Earl of Strafford*.

Mr. *Pym* is to manage this Conference, and Mr. *Maynard* is to be Assistant to him.

Mr. *Pym* acquaints the House, That according to their Command, he had delivered unto the Lords the Articles for the further Impeachment of *Thomas Earl of Strafford*.

Ordered, That the Thanks of this House be given to Mr. *Pym*, and to the whole Committee, for the great Service they have done this House in the great pains they have taken, in preparing and drawing up the Charge and Articles against *Thomas Earl of Strafford*.

Tuesday, February 16th, 1640.

Sir *Philip Stapleton* went up to the Lords, with a Message, to desire a Conference with their Lordships, by a Committee of both Houses, presently (if it may stand with their Lordships Occasions) concerning the Earl of *Strafford*.

Resolved upon the Question, That the Heads Reported by Mr. *Pym* from the Committee appointed to prepare the Heads of the Conference to be desired with the Lords, concerning the Earl of *Strafford*, shall be Heads of that Conference, and that Committee is to manage the Conference.

Sir *Philip Stapleton* brings Answer from the Lords, That their Lordships do expect His Majesty at their House this Morning; and that so soon as His Majesty shall be gone, they will send Answer by Messengers of their own.

Thursday, February 18th, 1640.

Sequestration
of *Thomas Earl*
of *Strafford*.

The Lords desired a Conference by a Committee of both Houses, concerning the Sequestring of *Thomas Earl of Strafford* from his Offices, presently in the Painted Chamber, if it may stand with the conveniency of this House.

To which, Answer was returned, That they will give a meeting presently for a free Conference.

Mr. *Pym* Reports the free Conference.

Upon Mr. *Pym's* Report, It was Ordered, That this Committee, viz.

Sir

Sir *Walter Earle*,
Sir *Jo. Culpepper*,
Mr. *Hollis*,
Mr. *Solicitor*,
Mr. *Vaughan*,
Mr. *Hyde*,
Mr. *Pym*,
Mr. *Maynard*,

Mr. *Selden*,
Mr. *Palmer*,
Mr. *Whitlock*,
Sir *Simon D'Ewes*,
Mr. *Whistler*,
Mr. *Glyn*, and
Mr. *Hampden*.

Do take into Consideration the whole matter of the Report of the free Conference now made by Mr. *Pym*, and also what concerns the Right of the Commons in the Proceedings in the Lords House against the Earl of *Strafford*, and what Concerns the Kingdom in general, and the Legality of these Proceedings; and they are likewise to Consider, What is fit for the Commons to claim in Causes of Impeachment; and they are to meet this Afternoon at Two of the Clock in the Treasury Chamber.

Friday, February 19th, 1640.

That the Committee for the Earl of *Strafford* shall have Liberty to open all Letters directed to Sir *George Ratcliff*, and if they find it worthy the knowledge of the House, they are to acquaint the House therewith.

To open Letters.

Ordered, That the Committee, appointed to consider of the Proceedings in the Lords House against *Thomas Earl of Strafford*, do meet this Afternoon at Two of the Clock in the Treasury Chamber.

Tuesday, February 23. 1640.

A Message from the Lords, desiring a present Conference by a Committee of both Houses in the *Painted-Chamber* (if it may stand with the convenience of this House) concerning the Conference that was Yesterday, touching the Proceedings against *Thomas Earl of Strafford*.

Concerning Council for the Earl of *Strafford*.

Answer returned by the same Messenger, That this House hath taken into Consideration their Lordships Message, and will give a meeting for a free Conference, as is desired.

Mr. *Glyn* Reports from the Conference, That the Lord Keeper delivered the Lords Answer in these words, *viz.* First, That We shall admit him no further use of Council, than the necessity of the Case, for his just Defence, requireth, and wherein Council may, with the Justice and Honour of this House, be afforded him. Secondly, That there shall be no delay in Proceedings, but all Expedition used according to their own desires.

Wednesday, February 24th, 1640.

A Message from the Lords, desiring a Conference by a Committee of both Houses, touching the Answer of *Thomas Earl of Strafford* presently, if it may stand with the Conveniency of this House.

Answer returned by the same Messengers, That this House will give a meeting presently, as is desired.

Mr.

Mr. Solicitor,
Mr. Maynard,
Mr. Pym,

Mr. Reynolds,
Mr. Palmer, and
Mr. Hampden,

Are appointed Reporters of the Conference.

Mr. Solicitor Reports from the Conference, That Yesterday was the day the Lords had prefixed for my Lord of *Strafford* to give in his Answer, that accordingly he was there, and had given it in; and that this Answer which now they had delivered to the Commons was the Answer which the Earl of *Strafford* was to stand or fall by.

The engrossed Answer, and a Copy of it, were both delivered in by the Reporters, and was desired, that when the Copy was perfectly examined, the Original might be delivered to the Clerk of their House.

Ordered, That Mr. Speaker be here this Afternoon at One of the Clock, and that the Earl of *Strafford*'s Answer may then be read and considered of.

The same day in the Afternoon the several Articles of the further Impeachment of *Thomas* Earl of *Strafford*, by the Commons, were all read; and to every of the said Articles, the particular and several Answers of the said Earl were likewise read.

The Answer held three hours reading, being above 200 sheets of Paper, too long to be here inserted; yet take an exact Abstract of the said Answer to the Articles exhibited against him, which are as followeth:

Answers to 28 special Articles.

To the First Article, he saith, He conceives that the Commission and Instruction differ not from those formerly granted, but refers to them, and that such Alterations and Additions as were made, were (for ought he knoweth) rather for the explanation than for the enlarging of the Jurisdiction, the Care whereof was left to the Secretary of that Council, and to the King's Learned Council, to be passed for the good of the King's Service, and the Publick Welfare of that Province; for Legality of the Proceedings, divers eminent Lawyers were joyned with the President, who, for the Legal parts, was by them to be directed. He did not advise or procure the enlargement of the Commission and Instructions, and he believeth nothing hath been practiced since, that was not in former Times, contained in former Commissions, under general words. He believeth Sir *Conyers Darcy* was lawfully Fined for Misdemeanors, as a Justice of Peace; and hath heard, he being in *Ireland*, that Sir *John Boucher* was Fined for some great Abuse at the Kings being at *York*, going into *Scotland* to be Crowned; to the Proceedings he refers himself. He denies that he hath done any thing by that Commission or Instruction, other than he conceived he might by virtue thereof lawfully do.

The little Finger of the Law

To the Second Article, He denieth the speaking of those words, but saith, That 30, 40 *l.* or more, being returned as Issues out of the Exchequer, against some that had compounded for Knighthood, for 10 *l.* or 20 *l.* so as the Issues far exceeded the Composition, and yet would next time have been increased. The said Earl upon this occasion said, That now they might see, that the little Finger of the Law was heavier than the

the King's Loins, which he spake to nourish good Affections in them towards His Majesty, and not to threaten or terrifie any, as the Article is supposed.

To the Third Article, he saith, *Ireland* is not Governed by the same Laws that this Kingdom is, unless it be meant by the Common Laws, their Customs, Statutes, Execution of Martial Laws, Proceedings at Council-Board very much differ, they spake not the words in the Article to any such intent; He saith, It might be fit enough for him to remember them of the great Obligation they had to the King and His Progenitors, that suffered them, being a Conquer'd Nation, to enjoy Freedom and Laws, as their own people of this Kingdom; and it might be, that upon some such occasion, he said to those of *Dublin*, That some of their Charters were void, and nothing worth, and did not bind His Majesty farther than He pleased, which he believes to be true, having been formerly so informed by His Majesties Learned Council upon fundry occasions.

*Ireland a Con-
quered Nation*

To the Fourth, he saith, That the legal and ordinary Proceedings at Council-Table are, and time out of mind have been by Petition, Answers, examination of Witnesses, as in other Courts of Justice concerning *British* Plantations, the Church and Cases hence recommended by the King, for the time being, and in Appeals from other Courts there; and the Council-Board have always punished Contempts to Orders there made, to Proclamations, and Acts of State, by Fine and Imprisonment. He saith, That it might be, he told the Earl of *Cork*, that he would imprison him if he disobeyed the Orders of the Council-Table, and that he would not have Lawyers dispute or question those Orders, and that they should bind, but remembreth not the Comparison of Acts of Parliament; and he hath been so far from scorning the Laws, that he hath endeavoured to maintain them; the Suit against the Earl, in the *Castle-Chamber*, was concerning the Possessions of the Colledge of *Tonghall*, worth 6 or 700 *l.* which he had endeavoured to get, by causing of unlawful Oaths to be taken, and very undue means, the matter proceeded to Examination and Publication of Witnesses, and after, upon the Earl of *Cork's* humble Suit, and payment of 15000 *l.* to His Majesty, and his acknowledgement of his Misdemeanors, obtained a Pardon, and the Bill and Proceedings were taken of the Files; and he remembers not any Suit for breach of any Order made at Council-Table.

*Lawyers not
to dispute the
Orders of the
Council-
Board, in the
Earl of Cork's
Case.*

To the Fifth, he saith, The Deputies and Generals of the Army have always executed *Martial Law*, which is necessary there; and the Army, and the Members thereof, have been long time Governed by printed Orders, according to which, divers, by Sentence of the Council of War, have formerly been put to death as well in the time of Peace as War. The Lord *Mountnorris*, being a Captain of a Company in the Army, for mutinous words against the said Earl, General of that Army, and upon two of those ancient Orders was proceeded against by a Council of War, being the Principal Officers of the Army, about twenty in number, and by them, upon clear Evidence, sentenced to Death, wherein the said Earl was no Judge, but laboured so effectually with His Majesty, that he obtained the Lord *Mountnorris's* Pardon, who, by that Sentence, suffered no personal hurt or damage, save about two days Imprisonment. And as to the other Persons, he can make no Answer thereunto, no particulars being described.

*Lord Mount-
norris senten-
ced to suffer
death by Mar-
tial Law.*

To the Sixth, he saith, The Suit had depended many years in *Chancery*, and the Plaintiff Complaining of that delay, the said Earl, upon a Peti-

*The Lord
Mountnorris
put out of
Possession.*

a Petition, (as in such Cases hath been usual) calling to him the then Master of the Rolls, the now Lord Chancellor, and the Chief Justice of the *Common Pleas*, upon the Proofs in the *Chancery*, decreed for the Plaintiff, to which he refers himself, and it may be the Lord *Mountnorris* was thereupon put out of his Possession.

Lord *Dillon*
his Patent
questioned.

To the Seventh, he saith, His Majesty being Intituled to divers Lands, upon an Inquisition found, Proclamation was made, That such as Claimed by Patent should come in by a day, and have their Patents allowed, as if they had been found in the Inquisition, and accordingly divers were allowed. The Lord *Dillon* produced His Patent, which being questionable, he consented, and desired that a Case might be drawn, which was drawn by Counsel, and argued, and the Judges delivered their Opinions, but the Lord *Dillon*, nor any other, were bound thereby, or put out of Possession, but might have traversed the Office, or otherwise legally have proceeded, that Case or Opinion notwithstanding.

The Lord
Loftus close
Prisoner, not
delivering the
Great Seal.

To the Eighth, he saith, That upon Sir *John Gifford's* Petition to the King, His Majesty referred it to the Deputy and Council of *Ireland*, where the matter proceeding legally to a Decree against the Lord *Loftus*, and upon his Appeal, that Decree, by His Majesty and His Council of *England*, was confirmed, to which Decree and Order he refers himself, believing the Lord *Loftus* was committed for disobeying that Decree, and for continuance in contempt committed close Prisoner. He saith, That the Lord *Loftus* having committed divers Contempts, the Council by Warrant required him to appear at the Board, and to bring the Great Seal with him; which Order he disobeyed, and was shortly after Committed, and the Great Seal was delivered up by His Majesties express Command, and not otherwise. And an Information was exhibited in the *Star-Chamber*, for grievous Oppressions done by the Lord *Loftus* as Chancellor, whereof he was so far from justifying, as that he submitted, desiring to be an Object of His Majesties Mercy, and not of His Justice.

The Earl of
Kildare Com-
mitted.

The Earl of *Kildare* for not performing of an Award made by King *James*, and of an Award made in pursuance thereof, by the said Earl of *Strafford*, upon a Reference from His Majesty, was by the Deputy and Council Committed, and a Letter being unduly obtained, he did not thereupon enlarge him; but upon another Letter, and submission to the Orders, as by the King was directed, he was enlarged.

The Lady *Hibbotts*, and one *Hoy* her Son, having upon a Petition, Answer, Examination of Witnesses, and other Proceedings at Council-Board, been found to have committed foul abuses by Fraud and Circumvention, to have made a Bargain with the Petitioner *Hibbotts*, for Lands of a great value, for a small sum of Money, was Ordered to deliver up the Writing, no Assurances being perfected, or Money paid, and it's like he threatned her with Commitment if she obeyed not that Order, but denieth that the Lands were after sold to Sir *Robert Meredith* to his use, or that by any Order by himself made, any one hath been Imprisoned concerning Freeholds, but for debts and personal things, as some have been used by all his Predecessors in like Causes.

To the Ninth, he saith, Warrants to such Effects have been usually granted to the Bishops in *Ireland*, in the times of all former Deputies; but the Earl not satisfied with the conveniency thereof, refused to give any such Warrants in general to the Bishops as had been formerly done; but being informed that divers in the Diocess of *Down* gave not fitting Obedience, he granted a Warrant to that Bishop, whereto he referreth,
which

which was the only Warrant he granted of that Nature, and hearing of some Complaints of the Execution thereof, he recalled it.

To the Tenth, he saith, The Lord Treasurer *Portland* offered the Farm of the Customs for 13000 *l. per annum* in some particular Species, but the Earl of *Strafford* advanced the same Customs to 15500 *l. per annum*, and 8000 *l. Fine*, and by His Majesties Command became a Farmer at those Rates proposed, without addition to those Rates, as by the printed Books 7 *Car. Regis* may appear; he dissuaded the advance of Rates lately proposed by Sir *Abraham Daves*, so as it was declined; the Rates of Hydes and Wooll are moderate, consideration being had of their true value, and of the Places whereto they are to be transported, and of the Statute made in the time of Queen *Elizabeth*, and there in force, prohibiting the Exportation of Wooll, unless they pay to the Crown 5 *s.* the Stone; the Trade and Shipping of that Kingdom are exceedingly increased.

To the Eleventh, he saith, Pipe-staves were prohibited in King *James's* Time, and not Exported, but by Licence from the Lord Treasurer of *England*, or Lord-Deputy of *Ireland*, who had 6 *s.* 8 *d.* a 1000, and his Secretary 3 *s.* 4 *d.* for the Licence; but to restrain that destruction of Timber, by Command of His Majesty, and Advice of His Council, for His Revenue in *Ireland*, first 30 *s.* then 3 *l.* the money was paid to His Majesty, who hath thereby about 1500 *l. per annum*, and his Lordship lost about 4 or 500 *l. per annum*, which his Predecessors had for such Licences. This is paid by the Transporter, not by the Natives, whose Commodity nevertheless appears by the Article to be very much increased.

To the Twelfth, he saith, The Subsidies there are an Inheritance in the Crown by Act of Parliament, 6 *d.* was paid for Subsidy, and 1 *s.* 6 *d.* for Impost upon every pound of Tobacco, and Farmed 10 or 20 *l. per annum*, the Commons in Parliament, 10 *Car. Regis*, finding the Revenue to be short of the Expence of that Kingdom 24000 *l. per annum*, Petitioned, those Grants might be applied to increase His Majesties Revenue, without calling upon the Subject, but upon urgent Occasions: Hereupon upon the Advice of the Committee of the Revenue; and in consideration of a Proclamation made in *England*, several Proclamations were made, and this settled in a way, till it could be confirmed by Parliament, for which purpose a Bill is transmitted, according to the desire of the Commons, and the Impost of Tobacco is Let to Contractors for eleven years, at 5000 *l. per annum* for the first five years, and 10000 *l. per annum* for the other six years, and the Earl hath lent money to forward the business, and by His Majesties Allowance is a Partner, but hath not as yet in two years last past had any Accompts thereof, or made benefit thereby. He knoweth of no whipping, or other punishment; the Fannes of the Customs are better than formerly, 2000 *l. per annum*, five 8 parts whereof is yearly paid unto His Majesty; the prices of Tobacco exceed not 2 *s.* or 2 *s.* 4 *d.* the pound, the setting of that Revenue, according to the Petition of the Commons, he hath not raised, or countenanced any Monopolies, but opposed the same.

To the Thirteenth, he saith, He endeavoured to advance the Manufacture of Linnen rather than of Woollen-Cloth, which might prejudice that Trade here; he bought Flax-seed in the *Low-Countries*, and sold it at the same Rate to such as desired it, they making their Cloaths not above a foot broad, and winding 8 or 10 threads from several bottoms together; the contrary was twined, their Flax formerly not above a foot, became a yard in length, and that soil is fit to bear it, and the people love such

ease Works; He hath set up many Looms, made much Cloth, and sold it to the loss of some Thousands of pounds; but when the State saw the Natives would not change their old Courses for new and better, the Proclamation was declined. What he did was for the Publick Good, and had nothing from them that was not fully paid for.

To the Fourteenth, he saith, He refers to the Oath and Proclamation, which was set forth by the said Earl and Council of State there, at the instance of the Farmers of the Customs, towards the defrauding of the King's Duties being in *France*, whereof His Majesty had five eight parts: He never heard any Complain of the Oath, or of any that refused to take it, and conceived it to be lawful, divers of the Council approving it, being Learned Judges of the Law, to whose judgment, for the legality, he submitted, as well in that as to other matters of like nature.

To the Fifteenth, He denieth what is in the Article Objected, but saith, That about the Year 1626. certain Agents authorized in *Ireland*, were sent into *England*, and offered and agreed to pay to His Majesty 120000*l.* in six years, towards the maintenance of His Army, and a like payment of 20000*l.* *per annum*, was after agreed, and continued for three years longer; the Assessments were made, and it was shortly after, by them and the Lord *Faulkland* then Deputy, agreed in *Ireland*, that the money should not be charged upon Record, but levied by Captains, by Paper-Assignments, upon Warrants from the Lord Deputy; and this course was held four years in the Lord *Faulkland's* time, and the four years wherein the Lord *Loftus* and the Earl of *Cork* were Lords Justices there; and it held for the remaining year only, after the Earl of *Strafford* came thither; but the Earl of *Cork* having spared those Towns for the benefit of himself and Tenants during the time of his being Justice: The Earl of *Strafford* reduced the Assessments to what it was made by the Lord *Faulkland*, and gave way that Sir *William St. Leiger*, Lord President of *Munster*, to take the same Arrerages, in satisfaction of a Debt due unto him by His Majesty, and he is confident no force was used in levying the same: It hath been usual to lay Souldiers to levy that Contribution, to send Souldiers to apprehend Contemners of Orders made at Council-Board, and the like; and when Out-Laws and Rebels have been in the Woods, no Souldiers have in his time been laid, but by the Advice of the Council there. Touching the *Castle-Chamber*, it's a parcel of the Territory of *Ideough*, whereto the King was Intituled by Inquisition, and the Possession established in a Legal way, when the said Earl was in *England*, and no Souldiers were sent, but only 12 at the intreaty of Mr. *Wanesford*, for security of his Houses and Plantations against Rebels that then were out, and burned and spoiled Houses thereabouts; and neither *Richard Butler's*, or any other Family were thence expelled by the said Earl from their Estates.

To the Sixteenth, he saith, There was such a Proposition which was just, to prevent clamorous Complaints here, which there might be redressed, but conceives that by the Laws there, and the Articles known since (by the name of the Articles of Grace made about fourteen years since) none ought to depart that Kingdom without Licence.

Thereupon, the Advice of the State, the Proclamations were set forth, but not with such intent as in the Article.

He denied Licence only to Three, the Earl of *Cork*, the Lord *Mount-merck*, and Sir *Frederick Hamilton*; to the two former, in regard of Criminal Suits then against them in the *Castle-Chamber*; to the other by special Command from His Majesty; but so soon as Sir *Frederick* said he would

would Complain of the Earl, he made Suit to His Majesty, That Sir *Fredrick* might come over, which was granted; He conceives such restraint to be necessary, and if that it be not continued, it will prove of evil Consequence to that Kingdom.

Parry was questioned at the Council-Board for Misdemeanors, and to avoid Sentence, secretly went out of the Kingdom, and at his return, for that and other Offences, was Fined and Imprisoned, to the Sentence thereof he refers, and knows of no other that were Imprisoned, as by the Article is Charged.

To the Seventeenth, he saith, It's like he might say (for the better encouragement of the Officers and Souldiers of the old *Irish* Army, in discharge of their several Duties) that His Majesty was so well satisfied in the way and pains they took in using and practizing of their Arms, that in that Point he would set them as a Pattern to be imitated; and conceives it would not be ill if they were so, they being in the Opinion of those that have seen them Exercise, very able and expert Souldiers, he spake not other words, or to other purpose.

To the Eighteenth, he saith, When the Earl of *Cork* was one of the Lords Justices, he seized some Houses in *Dublin*, pretending they belonged to Jesuits and Fryers, without Legal Proceedings, which, upon Suits prosecuted at Council-Board, were, according to Justice, restored to the Owners; but how since imployed the Earl of *Strafford* knoweth not, but endeavoured the utmost he could to maintain that Seizure. Touching the 8000 men, he saith, They were raised according to the King's Warrant, and that the said Earl left the Care thereof to the Earl of *Ormond* and others, and what number are *Protestants*, what *Papists*, he knoweth not, but believeth such a Body cannot be there raised, without many *Papists*; the greatest number of the Captains and Officers are *Protestants*, chosen by the said Earl. The 1000 men were drawn out of the old, to make Officers for the new Army, and believeth the 1000 put to the old Army are *Protestants*, in regard by his express Order no *Papist* is to be admitted there a Common Souldier. He never preferred any Captain, Lieutenant or Ensign to be of that Army that was a *Papist*, and conceives they are duly paid; and believes those newly raised exercise the Religion no otherwise than was practiced before the Earl's coming thither: He was a Commissioner to Compound with the Recusants for their Forfeitures, and endeavoured to be informed of the utmost value of their Estates; in four years he brought that Revenue from 2300 *l.* to be between 11 and 12000 *l. per annum*, more than ever was raised formerly in so short a time, by which faithful dealings, for His Majesty, he procured the hard Opinion of the Recusants throughout the Kingdom; that out of those Compositions he hath paid near 100000 *l.* into the Exchequer; and they had no other Priviledges than what was exercised in the Commission, and in former like Commissions, and as are in the present Commission to the Lord Treasurer, and others.

To the Nineteenth, he saith, The last Summer was twelve months, when the *English* and *Scotch* lay in the Fields near *Berwick*, the Earl and Council of *Ireland* having a general motion thereof, were in fear that the *scots* in *Ulster* (being almost 100000 in number) might be drawn to side with the Covenanters, and advising how to secure that Kingdom, the Principal of the Nation of *Scotland*, living in *Ireland*, came to *Dublin* and Petitioned, That he might have an Oath whereby they might give Testimony of future Obedience to His Majesty; whereupon an Oath

was by the Advice of Council of State framed, and chearfully taken by those *Scotch* Gentlemen, and generally by all the Nation in *Ireland*, as the Earl conceives to their advantage, and the satisfaction of others; he believes that some were Sentenced for refusing it, but none were otherwise exiled. The Earl in his Vote said, That he would endeavour, that all of that Nation should take that Oath, or leave the Kingdom, all which was done by His Majesties Direction and Approbation; and it was not contrived to the intents in the Article Charged, but to prevent their adhering to the Covenanters then in open Arms, and not concerning the Ceremony or Government of the Church.

To the Twentieth, he saith, That in the Year 1638. the Earl was in *Ireland*, when Preparations were made for War, and Summons sent to the Nobility of this Kingdom: In the Year 1639. a General was appointed, and an Army drawn to the Field, and Encamped near *Bermick*, whereby it appears he was not acquainted that the Article of Pacification had been broken on both Sides, and so distempered, that it was held fit an Army in *England* should be raised, to suppress the Covenanters, if the business could not with Honour and Safety be otherwise composed. The said Earl humbly advised His Majesty to call a Parliament, and used many Motives thereunto; after the Parliament was called, and before the Sitting thereof, ten of the Lords, and other of the Council for Forreign Affairs, being assembled, His Majesty then present, an Honourable Person related the Covenanters Demands; it was then Voted by all, That they were such as might not in Honour and Safety be condescended unto by His Majesty; and if they could not be otherwise reduced, His Majesty must be constrained to bring them to it by force; the like Resolution was after at the Council-Table by twenty of the Council: Whereupon His Majesty appointed a Council of War, and it was held necessary to borrow 200000 *l.* upon good Security, till the Supplies by the Parliament might come in. He never said the *Scotch* Nation were Rebels, but was ever perswaded that many of them are most Loyal Subjects.

Those that raised Arms, when they were at such distance from His Majesty, he might say they were no less than Rebels and Traytors; by Warrant from the Lord Admiral, he caused divers Ships and Goods to be seized, but not with an intent to set on the War, but as much as in him lay to bring all to fair Accommodation, without expence of blood.

To the 21th, he saith, The pacification was broken before he came over, as in the Answer to the former Article he moved His Majesty for a Parliament in *England*, but not with such intent as in the Article, but out of a desire to have settled a right Understanding between the King and His people. It may be, he said, (though he remembreth it not) that if the Parliament would not Supply His Majesty, he would serve His Majesty in any other lawful way; being well assured that His Majesty would not imploy him, nor any man else, in any other kind.

To the 22th, he saith, According to His Majesties Instructions, he did set forth to the Parliament of *Ireland*, the State of the Affairs as they then stood, and they freely gave four Subsidies, as an acknowledgment of His Goodness and happy Government, as by the Act and Remonstrance appears in Print; He, by His Majesties Direction, then gave Order for the raising of 8000 men, who still remain in the King's pay, and were sent into *Ulster* to secure those Parts, or to land in *Scotland*, to divert the Earl of *Argile*, in case he joined with the Covenanters Army against the King; but it was mentioned in the King's Letter, 2. *Martii*, 1639. he had purposely

posely given out, That they should join with the King's Army at *Berwick*, to colour other Designs; but the true cause of their Levying was made known to be as aforesaid unto the Earl of *Ormond*, Sir *John Burlace*, and the Marquis of *Hamilton*, and Earl of *Northumberland*, at the time of the writing the Letter, and he denies the words charged in the Articles, or any other words to such intent and purpose.

To the 23th, he saith, The matters of the Parliament were no otherwise referred to him, than to the rest of the Council, that coming sick from *Ireland* about ten days after the Parliament were set, and after the Treaty with the Earl of *Dunfermline*, Lord *Lowdon*, Scotch Commissioners, was broken off, and the Army preparing, and the Parliament not supplying Monies as His Majesty desired; His Majesty advised what might move them to prefer His Supply; in debate whereof, he humbly advised His Majesty, by a Message to the House, to lay down Ship-Money, and promise never to demand it, and give way to reverse the Judgment by a Writ of Error in Parliament, and to promise a Redress of Grievances when they should be prepared. And secondly, That they would presently agree upon such Supply as should maintain His Army, for reducing the Scots to their Obedience, wherein their Safety and His Honour was concerned: His Majesty assented conditionally, that he might have 12 Subsidies; the Earl besought Him that it might not pass as a Condition, but to Relinquish Ship-Money, and put himself upon their Affections, and drew up the Message in Writing, and delivered it to Mr. Secretary *Vane* to deliver to the House of Commons: He desired to know if His Majesty would not take less than 12, His Majesty Answered, He feared less would not serve His Occasions; The Earl of *Strafford* besought His Majesty to accept of Eight, so His Majesty assented, and desired Mr. Secretary to signify so much, as occasion should be offered; but whether he did so or not the said Earl knoweth not. The House of Commons being in debate two days, and not Resolving. His Majesty about the 5th of *May* last called a Council at Seven of the Clock in the Morning, the said Earl being sick, came late, and was told, (as he remembreth) by the Earl of *Barkshire*, the King had declared His Resolution to Dissolve the Parliament; the Earl of *Strafford* besought His Majesty to hear the Advice of His Council, and first of those that were Members of the House of Commons, by whom the rest might the better be guided: Mr. Secretary *Windebank* said, He feared the House would first be Answered of their Grievances, and Voted for a Breach of the Parliament. Mr. Secretary *Vane*, in opposite terms, said, That there was no hope that they would give the King a Penny, and therefore absolutely Voted for a Breach. And the Earl of *Strafford* conceiving His Majesties Pleasure to have accepted Eight Subsidies, had been delivered to the House of Commons by Mr. Secretary *Vane*, did, in His Majesties turn, deliver his Vote for Breach of the Parliament, which otherwise he would not have done; it being contrary to what he Resolved when he came thither, and like Opinion was delivered by the rest of the Lords, being about twenty, except two or three at the most. The Parliament being Dissolved, His Majesty desired Advice of His Council, How money might be raised, affirming, That the Scotch Army was ready to enter into the Kingdom; The said Earl, in presence of others in the Council, delivered his Opinion, That in a Case of absolute and unavoidable necessity, which neither would nor could be prevented by ordinary remedies, provided by the Laws, nor all His Majesties other means sufficient to defend the Common wealth Himself, or their Lives and Estates from an Enemy, without force

force of Arms, either actually entred, or daily expected to Invade the Realm; He conceived that His Majesty was absolved from ordinary Rules, and might use (in as moderate a way the necessity of the Cause would permit) all ways and means for defence of Himself and Kingdom, for that he conceived in such extremity, *salus Populi* was *Suprema Lex*, provided it were not colourable, nor any thing demanded imployed to other use, nor drawn into Example, when Law and Justice might take place; and that when Peace was settled, Reparation was to be given to particular men, otherwise it would be unjust. This was not officiously declared but in Council, forced by the duty of the Oath of a Counsellor, which is, that he shall in all things to be moved, treated and debated in Council, faithfully and truly declare his Mind and Opinion according to his Heart and Conscience; which Oath the said Earl took, and humbly prays their Lordships Consideration thereof; He denieth the words in the Article, or any words to the intent thereby expressed.

To the 24th, he saith, He delivered his Opinion with such Cautions and Restrictions, as in the Answer to the Precedent Article, and is well assured his Discourse at all times hath been without ill Intentions to either of the Houses of Parliament, which he ever did, and shall think and speak of with all Reverence. He denies that he knew of the Publishing or Printing of the Book, nor who caused it to be Printed or Published, for at that time he was sick in his Bed, more like to die than to live.

To the 25th, he saith, Ship-Money was levied, and adjudged to be due, before his coming over. Sheriffs were then called up as before, and not otherwise. If any were sued in *Star-Chamber*, it was without any particular endeavour of his: It appearing at the Board, That the Mayor and Sheriffs of *London* had been slow in Collecting Ship-Money, he said, They were but Ministerial, and ought to Exact, and not dispute the King's Writs, and that if through their remissness the King should be less able to provide for the Publick Safety, when any Forreign Army was ready to enter the Kingdom, they might deserve to be Fined and Ransomed; which he spake more to hasten them, than of purpose to advise any such Prosecution; but denies the other words, being, under favour, such Expressions as he is not accustomed unto.

To the 26th, he saith, He advised not either of those Projects (being then sick in Bed) but it being debated at the Council-Table, Whether it were better for the King to raise Gold and Silver, or Coin base Money? He (for the Reasons then given) delivered his Opinion for the latter. Sundry Merchants Adventurers coming to his house, desired him to move His Majesty, then at *Oatlands*, to Release the Bullion, or Money, he told them, He knew of no such thing, and would not meddle with it; nor would his Health permit him to go abroad, and said, That if their denying the King in such a Publick Danger, the Loan of 100000 *l.* upon good Security, the King were constrained, for the Preservation of the Land, to stay the Bullion, they might thank themselves; and the City receiving so great a benefit by Residing amongst them, they made but an unthankful acknowledgment in such a Straight, to refuse the Loan of that Sum. The Officers of the Mint came to the Council-Board, and the Earl then shewed a Letter, he received from the Earl of *Leicester*, wherein was related, That the Cardinal had appointed Commissioners to go into the Merchants houses at *Paris*, to peruse their Shop-Books and Accompts, and to Cels every man, according to his Ability, towards the payment of the King's Army, and then said, That it was but just for Us here in *England*, to bleis God for being under a King

King which could not think upon such a Pressing upon the People. But the words in the Article, or words to any such intent, he did not speak, and cannot sufficiently bemoan himself to have been in all his words so ill understood, or so untruly Reported as he hath been.

To the 27th, he saith, He perswaded the Gentry of that Country, to allow the *Trained-Band* a months Pay, which they yielded, and His Majesty graciously accepted. It was by Council of War (His Majesty being present) thought fit the *Trained-Bands* should return, save the two Regiments under the Command of Sir *William Pennyman* and Sir *Thomas Danby*. It was assented unto by His Majesty, and the great Council of the Peers then Assembled, That those spared should Contribute, and the said Earl was Commanded by them to see it done; which was done accordingly by Warrants from him and from his Deputy-Lieutenants, which was much less Charge to the Countries than otherwise, and denies the other particular in the Article mentioned.

To the 28th, he saith, He was Lieutenant-General to the Earl of *Northumberland*, about the 24th of *August*, of 10 or 12000 Foot and 2000 Horse, being at *New-Castle* under the Command of the Lord *Conway* and Sir *Jacob Ashley*, and the rest of the Army at *Tork*; the said Earl went from *London*, and the 26th of *August*, notwithstanding his extream weakness, and came to *Tork*, and having received a Letter from Sir *Jacob Ashley*, that *New-Castle* was Fortified, and that they must be Infamous Beasts to lose it, and that it was fully Secured; and being acquainted with several Dispatches sent by Mr. Secretary *Vane*, by His Majesties Directions, to the Lord *Conway*, General of the Horse, to oppose the Passage of the *Scots* over the River of *Tyne*, the one dated 22. *Augusti*, the other 23. *Augusti*, another 24. *Augusti*, another 26. *Augusti*, the substance of which Letters are particularly mentioned in the Answer to this Article, and to the same Letters the said Earl referreth himself.

The said Earl, upon sight of this and Sir *Jacob Ashley's* Letter, had reason to believe, that all fitting preparation was made, and then understanding that if the *Scotish* Army should pass the River, not only *New-Castle* altogether Unfortified on the South part, would be lost, but the said Army of 11000 Foot and 2000 Horse endangered; and hearing that the *Scotish* Army were distressed for want of Victuals, and knowing the advantage that was in opposing the Passage of such a River. Hereupon the said Earl, by a Letter dated the 27th of *August*, advised the Lord *Conway* with all the Horse, and at least 8000 Foot, and all the Cannon, to March and Fight with them; upon the passage of the River, at which time the said Earl had no Charge of the Army; but the truth is, the Lord *Conway* having not with him all the Horse, and not above 1500 Foot, and only some part of the Cannon was in a posture to fight, for the passage before the said Letter of advice came, which he received not half an hour before the Fight began, and proceeded according to his own judgment, and His Majesties said general Direction; and afterwards, that is about the 30th of *August*, and not before, the said Earl took upon him the Charge of the Army at *Darlington*, and brought it to *Tork* to be supplied with Necessaries that they wanted, and purposed to have staid where they were quartered. But hearing from many hands that there was a purpose to question him in Parliament, and His Majesty having given him Liberty of staying there, or coming away, he left the Charge of the Army with the Lord *Conway*, and other Officers, as His Majesty had directed, and came to *London* on Monday the 9th, and the 11th of *November* was put under

under Restraint, and so hath ever since remained. And saith, That the Town of *New-Castle* was no way under his Care; and as to other matters whereto by Law he ought to answer, and hath not answered, he saith, He is not Guilty of them, or any of them, in such manner and form, as in the said Article is expressed, and humbly prayeth a convenient time for making his Proof, and to justify and maintain his Actions in *Ireland*, by sight of His Majesty's Warrants, Records, and Witnesses in that Kingdom, and that if any mistake be in this Answer, it may be amended.

And thus the said Earl hopeth, that upon equal Construction of his Words and Actions, he shall appear free from any great and hainous Offences wherewith he is Charged; and howsoever it shall please God to dispose of him, he shall ever pray, that by their Lordships great Wisdoms and Prudence, the Affections of His Majesty, and Duty of His Subjects, may this Parliament be so surely knit together, as may by God's blessing lastingly tend to the Prosperity and Flourishing Estate both of King and People.

Friday, February 26th, 1640.

Committee to
consider of the
Proof.

Ordered, That the same Committee that was formerly appointed to draw up the Charge against the Earl of *Strafford*, with the Addition of Mr. *Palmer*, Mr. *Selden*, Mr. *Whitlock*, and Mr. *Maynard*, do consider of the Articles and further Impeachment of *Thomas* Earl of *Strafford* by the Commons; and likewise the said Earl's Answer to those Articles and further Impeachment. And they are likewise to consider of the Proofs, and how the Witnesses may conveniently be brought together, to give their Testimony *Viva Voce* in the business; and they are to proceed in the secretest and speediest way they can, for the advantage of the business, in preparing it for a Trial and further Proceedings; and they have Power to send for Persons, Witnesses, Papers, Records, or any thing else, that they in their Judgments shall conceive fit, or may conduce to the Service; and they are to meet this Afternoon at Two of the Clock in the Treasury Chamber.

The four Lawyers that were added to the Earl of *Strafford's* Committee, made their Protestation of Secrecy openly in the House.

Sir *George Wentworth*, upon his Protestation made to the House to keep secret all such Matters as passed this day, had leave to resort to his Brother the Earl of *Strafford*, but all the other Members of this House are restrained from resorting unto him, without leave first obtained.

Saturday, February 27th, 1640.

Members to
manage the
Evidence.

Mr. *Whitlock* Reports from the Committee for the Earl of *Strafford*. The House does declare, That they are well satisfied, that the Evidence to be produced against *Thomas* Earl of *Strafford* at his Trial be managed by those Members.

Friday, March 5th, 1640.

No Replication
on to the Earl's
Answer.

Upon Mr. *Whitlock's* Report from the Earl of *Strafford's* Committee, it was Resolved upon the Question, That there shall be no Replication put unto the Earl of *Strafford's* Answer in Writing, but that the further Proceedings shall be in the manner as is now proposed by the Committee.

Mr.

Mr. *Whitlock* is to go up to the Lords with this Message, viz.

That the House of Commons have considered of the Earl of *Strafford's* Answer, and do aver their Charge of High Treason against him, and that he is Guilty in such manner and form as he stands Accused and Impeached, and that this House will be ready to prove their Charge against him, at such convenient time as their Lordships shall prefix, and intend to manage the Evidence by Members of their own, and desire a free Conference with their Lordships, by Select Committees of both Houses, to consider of some Propositions and Circumstances concerning the Trial.

Mr. *Whitlock* brings Answer from the Lords, That their Lordships have taken the Message from this House into Consideration, and will give a meeting, for a free Conference, by a Committee of 24 on *Monday Morning* at Nine of the Clock.

The Committee of the Commons.

Mr. *Pym*,
Mr. *Strode*,
Mr. *Solicitor*,
Mr. *Grimston*,
Lord *Digby*,
Sir *John Clotworthy*,
Sir *Walter Earle*,
Mr. *Hampden*,
Mr. *Whitlocke*,
Mr. *Palmer*,
Mr. *Selden*,
Mr. *Maynard*,
Mr. *Treasurer*,
Sir *Jo. Culpepper*,
Mr. *Reynolds*,
Mr. *Hyde*,
Mr. *Prideaux*,
Mr. *Whitlock*,
Mr. *Martin*,
Mr. *Proxholm*,
Mr. *Gray*,
Lord *Faulkland*,
Mr. *Vaghan*,
Lord *Russell*,

Sir *John Strangwaies*,
Mr. *Bellasis*,
Sir *Guy Palmer*,
Mr. *Sutton*,
Mr. *Whistler*,
Sir *Symon D'Ewes*,
Sir *An. Irby*,
Sir *Martin Lomly*,
Mr. *Waller*,
Mr. *Coventry*,
Mr. *Upton*,
Sir *John Eweling*,
Lord *Fairfax*,
Sir *William Massam*,
Mr. *Pierepoint*,
Sir *Benjamin Rudyard*,
Sir *Thomas Barrington*,
Sir *Philip Stapleton*,
Mr. *Capell*,
Mr. *Cary*,
Sir *Ralph Hopton*,
Sir *Robert Hatton*,
Sir *Gilbert Gerrard*,
Mr. *Nathaniel Fines*.

A Committee of these 48 are to meet a Committee of 24 of the Lords at a free Conference, concerning the Trial of *Thomas Earl of Strafford*, on *Monday Morning* next, at Nine of the Clock in the *Painted-Chamber*

The Committee for the Earl of *Strafford* are to manage this free Conference with the Lords.

Monday, March 8th, 1640.

Upon Mr. *Whitlock's* Report from the Committee for the Earl of *Strafford*, the Heads of a Conference appointed to be had this day concerning the Trial of the said Earl. It was Resolved upon the Question :

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(1.) To

(1.) To Propose to the Lords, That they will be pleased to take some Order, that there may be a convenient Place appointed for the Trial of *Thomas Earl of Strafford*, and to give such Directions as shall be fit for preparing conveniency of room for both Houses, and for such Members of the House as are appointed to manage the Evidence, and for Witnesses, and for the Prisoner; and for excluding of all such as ought not to be present at the Trial.

(2.) That whereas, in the last Message to the Lords, this House did Intimate unto them, That they did intend to manage the Evidence by Members of their own; They are now Commanded to explain their Reason, That their Lordships may take notice, That We do not expect any Council shall be admitted the Earl of *Strafford* at the giving of Evidence at the Trial.

Thursday, March 11th, 1640.

Concerning
the manner of
the Trial of
the Earl.

Mr. *Whitlock* Reports from the free Conference, concerning the Trial of *Thomas Earl of Strafford*, That the Lord Privy-Seal began with this Introduction; That this Parliament, both Houses, have had often Conferences, and to good Purpose, which had preserved a true Understanding between both Houses, That at the last free Conference their Lordships did receive from this House certain Propositions, concerning the Trial of *Thomas Earl of Strafford*, which We our Selves call Circumstances. (1.) Concerning Place. (2.) Persons. (3.) Managing the Evidence. (4.) Use of Counsel; he was pleased to remember the words of the Proposition, as they were delivered unto them, and told Us those were Circumstances; yet Circumstances were Servants to Execution, and might be altered; and if they should Change from the House they now sit in into the *Painted-Chamber*, or the Court of Requests, upon Survey of it, by skilful men, they were informed the Floor of it is so weak, that it might be very dangerous for so great a Resort to be in together at the Trial, therefore left that to Our further Consideration. The Lords thought of this, That the Bar in their House might be removed higher, and the Room there made longer; and that being made a Scaffold, might be a Capacity sufficient to receive the Members of this House; this he did only Propose, and said, The Bishops did desire to be absent at this Trial, so there would be more room, for the Earls would sit in their places. Next that, their Lordships did desire to understand, Whether We meant to be there as a House, which they thought We did, or as single Members of the House. (3.) His Lordship was pleased to tell Us, They desired an Exposition of the words managing of Evidence: Whether We intended a marshalling and applying of the Proof? (4.) That the Lords did desire, concerning the Place and Persons, to know how they have been admitted in former times, that they might be fortified by Presidents for Place and Persons, and for Counsel. Their Lordships are careful not to admit of more than is according to the Law of this Kingdom: And thereupon their Lordships have made this Resolution, That the Earl of *Strafford*, in matters of meer Fact, shall not make use of Counsel, but in matter of Law he shall; and if any doubt arise, what is matter of Law, and what is matter of Fact, the Lords do reserve the Judgment hereof to themselves; this came by intimation of Ours, that We did intend to manage the Evidence; and at a Conference We explained Our Selves, That We did not expect they would allow Him any Council at the giving of Evidence. After this he was pleased to

to tell us, That he had not forgot another thing, though he omitted it, that he that delivered the Proposition, at the Message, used words to this purpose, That this House did hold it necessary and fit, that all the Members of the House might be present at the Trial, to the end, every one might satisfie his own Conscience; in the giving of their Vote, to demand Judgment. Upon this We thought it not fit to make an Explanation, till We had acquainted the House with it.

Ordered, That the whole matter of the Report, now made of the free Conference with the Lords, concerning the Trial of *Tho. Earl of Strafford*, be referred to the Committee for the Earl of *Strafford*, to search and consider of Presidents, and to prepare Reasons, and to present them to the House to morrow morning, and they are to meet this Afternoon at Two of the Clock in the Treasury-Chamber.

A Message from the Lords, to desire a free Conference by the same Committee that last met, touching the Demands concerning the Trial of *Thomas Earl of Strafford* in the *Painted-Chamber* presently, if it may stand with the conveniency of this House.

Answer returned by the same Messengers, That this House has taken their Lordships Message into Consideration, and will give a meeting presently by the same Committee, as is desired.

The Committee, for the Earl of *Strafford*, are appointed to manage and Report this Conference.

Friday, March 12th, 1640.

Mr. *Whitlock* Reports from the Earl of *Strafford's* Committee such Heads, as that Committee does present unto this House to be the Heads of a free Conference, to be desired with the Lords concerning the matter of the last free Conference with the Lords, touching the Trial of *Thomas Earl of Strafford*.

Upon this Report, It was Resolved upon the Question, That this shall be the first Head of the free Conference, *viz.* 1. As concerning Place, that this House doth conceive, that although the Bar of the Lord's House be removed, and some Members thereof absent; yet without the Bar, the Room will not be sufficient to contain the Members of the House of Commons, and that their Lordships will be pleased to direct some other Place for the Trial. For the Presidents concerning the Place, their Lordships take notice in their Conference, That the Parliament sate in the Chamber *Blank*, 1 R. 2. but the Parliament being Summoned to appear at the King's Palace at *Westminster*, if one Room be not convenient, another Room might be desired that shall be more convenient.

Resolved upon the Question, That this shall be the Second Head of the free Conference, *viz.* (2.) That the Earl of *Strafford*, being Impeached by the Commons, it doth belong to the House of Commons to Resolve who are to be present at the Trial, and that of Right they may come as a House, if they please, but however they are Resolved to send their own Members as a Committee of the whole House.

Resolved upon the Question, That this shall be the Third Head of that free Conference, *viz.* (3.) That by the managing of the Evidence, this House doth mean the ordering, applying, and inforcing the Evidence, according to the truth of the Fact.

Ordered, That the Fourth Head of this Report now made from the Committee, of the Earl of *Strafford*, concerning the matter of Council,

be recommitted to the same Committee, with the addition of the Lawyers of the House as was Yesterday made; and they are likewise to take into Consideration, what those Gentlemen have incurred that have been of Council with the Earl of *Strafford*, he being accused of High Treason by this House, in the Name of Themselves, and of all the Commons of *England*; and to present to this House what they think is fit to be done in that business, and Mr. *Peirepoint* and Mr. *Martin* are added to this Committee as to this business, and they are to meet this Afternoon at Two of the Clock in the Treasury-Chamber.

Saturday, March 13th, 1640.

Concerning
the place of
Trial, and the
Council for
the Earl.

Mr. *Peirepoint* is appointed to go to the Lords, to desire a free Conference by the same Committee that was last appointed for the free Conference, touching the Trial of *Thomas* Earl of *Strafford*.

Mr. *Whitlock* Reports from the Committee for the Earl of *Strafford*, That the House had heard part of this Report the other day, viz. (1.) The place of Trial. (2.) The Persons to be present. (3.) The managing of the Evidence; these three passed their Vote Yesterday. The Fourth Head concerning Counsel was recommitted, which received this Resolution, That the Commons do acquaint their Lordships, that if at any time, during the Evidence, the Counsel for the Earl of *Strafford* shall interpose, when the Members of this House, that are appointed to manage the Evidence, are speaking, they must of necessity desist, because it will not become them to plead against Counsel; and as concerning the allowing of Counsel in matters of Law, and reserving to their Lordships to judge the Doubts, what is matter of Law, and what Fact; the Commons do save to themselves all Right that doth appertain to them, according to Law and course of Parliament, and do declare, That the Proceedings in this Case shall not be drawn into President, to the prejudice of the Commons. For the other matter, concerning the Offence of the Counsel of the Earl of *Strafford*, by being of Counsel with him, without leave of this House; the Committee could not proceed, the other matter taking up the whole time.

The Committee, for the Earl of *Strafford*, are to manage this Conference.

Mr. *Whitlock* acquaints the House, That according to the Command of this House, he had delivered unto the Lords the Votes that had passed here, concerning the Trial of *Thomas* Earl of *Strafford*.

A Message from the Lords, desiring a free Conference by the same Committee, touching the Demands concerning the Earl of *Strafford* presently in the *Painted-Chamber*, if it may stand with the conveniency of this House.

Answer returned by the same Messengers, That this House has taken their Lordships Message into Consideration, and will give a meeting presently, as is desired. The same Committee is to manage and Report this Conference.

Mr. *Whitlock* Reports from the free Conference, touching the Demands concerning the Trial of the Earl of *Strafford*, That the Lord of *Bath* was pleased to declare, in the Name of the Lords, That the House had taken into Consideration those Demands made this Morning, and agreed upon an Answer to every one of them.

(First,)

(First,) As to the Place, they had agreed, it should be in *Westminster-Hall*, and the King to be made acquainted with it by the Lord Great Chamberlain. (Secondly,) For Persons, their Lordships agreed to it, That the House of Commons be present as a Committee of the whole House for this time, with a saving of the Right of the Lords House, either according to Law or Parliamentary Proceedings; and that this shall not be drawn into President hereafter on either side. For the (Third,) For the managing of Our Evidence, they grant it wholly. For the (Fourth,) For Counsel in managing and forcing of Evidence; the Counsel of the Earl of *Strafford* is not to speak nor interrupt the matter of the House of Commons until all the Evidence is finished; and the Counsel is not to stand at the Bar, but in some convenient place where they may hear; and that they may speak for matter of Law, but not for matter of Fact, and that not unless their Lordships shall see fitting. (Next,) For the time, my Lord of *Bath* did tell Us, They could not yet Resolve upon it, till the Surveyor and Workmen, that did take care to build the Scaffolds, did give account how soon they could be ready.

Ordered, That it be referred to the Committee for the Earl of *Strafford*, with the addition made to the Committee for this purpose, to consider of the saving, and the other part of the Report now made from the free Conference, concerning the Trial of *Thomas* Earl of *Strafford*, and they are to present to the House what they think fit to be done thereupon.

Monday, March 15th, 1640.

A Message from the Lords, That the House of Peers desire a Conference concerning the time of the Earl of *Strafford's* Trial, and some other Circumstances that concern that Trial; they desire it presently in the *Painted-Chamber*, if it may stand with the conveniency of this House by the same former Committee.

The time of the Trial.

Answer returned by the same Messengers, That this House has taken their Lordships Message into Consideration, and will give a meeting presently, as is desired by the same Committee.

Mr. *Whitlock* Reports the Conference had with the Lords, concerning the Trial of the Earl of *Strafford*, *in hæc verba*, That the Lord of *Bath* did tell Us, That he had something to acquaint Us from the Lords, That their Lordships had Ordered, That the Place for the Trial of the Earl of *Strafford* shall be in *Westminster-Hall*; That the King hath been acquainted therewith, and hath been pleased to assent thereunto: That the time for the said Trial shall begin on *Monday* next at Nine of the Clock in the Forenoon; and that against that time Care is taken that all things shall be prepared and made ready; and that the Lords will be pleased to give notice of the time appointed for this Trial to the Earl of *Strafford* to attend accordingly; and a Warrant is to be directed to the Lieutenant of the *Tower*, to bring the said Earl of *Strafford* at the time and to the place aforesaid.

Concerning the Place for the Trial.

After this the Earl of *Essex* told Us, The Lords did take into Consideration something alledged in the Earl of *Strafford's* Answer to the 27 Article, wherein the Peers, that were of the Great Council, had some Aspersions cast upon them, that they had entred this Protestation.

Whereas

Whereas the Lords of the Great Council at *York*, to clear their Honours only, have made their Protestation, That they did neither Command nor Approve the raising of Monies in *York-shire*, as is alledged by the Earl of *Strafford* in his Answer to the 27th Article. Now the said Protestation is by this House unanimously admitted. And it is likewise Ordered, That so much may be intimated to the Committee of the House of Commons at the next Conference.

Moved, That the Committee for the Earl of *Strafford* do consider of the last part of the Report now made, concerning the Protestation made by the Lords of the Great Council at *York*, how far they may make use of it in the Evidence at the Trial of the Earl of *Strafford*.

Ordered, That the Committee for the Earl of *Strafford* consider of the last part of the Report of the Committee, concerning the Protestation made by the Lords of the Great Council at *York*, how far they may think fit to make use of it as Evidence at the Trial.

Tuesday, March 16th, 1640.

Mr. *Whitlock* Reports from the Committee for the Earl of *Strafford*, That whereas the House of Commons have formerly declared to their Lordships, that the Earl of *Strafford* being Impeached by them, they do conceive it doth belong to them to Resolve, in what manner they will be present at his Trial; and that of Right they may come as a House if they please; but for some special Reasons, upon this occasion, they are Resolved to send their own Members as a Committee of the whole House, Authorized by the House to be present at the Trial to hear, and some particular Persons of themselves to manage the Evidence. The House of Commons doth still continue their Resolution in every part thereof and therein, and in the matter of allowing Counsel: And their Lordships Reservation to their Judgment what is matter of Fact, and what not, the House of Commons do save to themselves, as they have formerly done, all Rights that do appertain to them, according to Law, and the course of Parliament; and do declare, That the Proceedings in this Case shall not be drawn into President, to the Prejudice of the Commons.

Ordered, That this Protestation be by way of Conference transferred to the Lords.

Wednesday, March 17th, 1640.

Ordered, That Mr. *Pym* shall make Report of three especial Cases that concern the Earl of *Strafford*'s business on *Friday* morning next.

Thursday, March 18th, 1640.

Ordered, That the Earl of *Strafford*'s Committee of Twelve do attend that Service, and lay aside all other Excuses and Occasions, unless they be otherwise Commanded by this House, and Mr. *Glyn* is added to this Committee.

Friday, March 19th, 1640.

Ordered, That a Warrant under Mr. Speaker's Hand, be directed to the Master of the *Marshalsey*, of the *Kings Bench*, requiring him to send
Robert

Robert Coyne (a Prisoner there upon Execution in safe Custody) to attend the Committee for the Earl of *Strafford De die in Diem*, so long as the Committee shall so require.

Ordered, That *Patrick Allen*, an *Irish* Merchant, who has a Petition depending here, shall have the Liberty to go abroad with a Keeper to Prosecute his business here, and to be examined as a Witness at the Committee for the Earl of *Strafford*.

Sir *Thomas Barrington*, Sir *John Culpepper*, Sir *Jo. Strangways*, Mr. *Asburnham*, Sir *Jo. Hotham*, Sir *William Litton*, Sir *Jo. Holland*, Sir *Robert Pye*, Mr. *Wheeler*, Mr. *Lawrence*, and Mr. *Whittaker*, are appointed as a Committee to View the place for the Earl of *Strafford's* Trial, and to think of some convenient manner for the Committee of the House to go in, and be present at the said Trial; and for Mr. Speaker to be there in a private manner, and they are to meet this Afternoon at Two of the Clock in the inner Court of Wards.

Members appointed to View the place of Trial.

Saturday, March 20th, 1640.

Ordered, That the Earl of *Strafford's* Committee of 13 shall have Power to manage the Evidence in such manner, as they shall think fit to manage the same at the Trial of the Earl of *Strafford*.

Ordered, That Mr. *White* and Mr. *Prideaux* be appointed to take Notes of the Passages of the Trial of *Thomas* Earl of *Strafford*, and to Report them to the House, if occasion be; and that the Committee shall have Power, if occasion be, to make use of two more, such as they shall think fit, though not of the House.

Moved from the Earl of *Strafford's* Committee, That it would please the House to give a fair and candid Interpretation of the Committees Labours and Endeavours in this business.

Upon Sir *John Culpepper's* Report from the Committee appointed to view the Place, and to Regulate the Order and the Manner of the Committee of the Houses coming and being there: It was Ordered, (1.) That the Members of the Commons shall sit together, without any Intermixture of others, in that place which is prepared for them. (2.) That in respect of the inconveniency of it, the Members shall not come to meet at the House on *Monday* morning, but come directly to the place of the Trial. (3.) That for the well-ordering of the business, the said Committee, with the addition of Mr. *Peard*, shall be present at the several doors at the Entrance of the place appointed, for the Members of the House by Six of the Clock, and are directed and required by the House to admit none but such as shall bring Tickets of their Names and the Places for which they Serve; and that none of the Members of the House shall be admitted to come in before those that are appointed to attend at the doors shall come; and if any, either Stranger or Member of the House, shall offend this Order, those who are appointed to attend this Service shall Report it to the House. And it is further Ordered, That all of the House shall be there by Eight of the Clock at the farthest; and that such places shall be reserved for them, who shall attend this Service, as they shall find to be most proper and convenient for them. (4.) Ordered, That the Serjeant at Arms shall attend within the Court, and his Men without, to be employed in such Service as they who manage the Evidence shall appoint.

Sir

Sir *John Culpepper* further Reported, That the Speaker might be present in some private place, and as a particular Member of this House; but the Committee doth not think fit that the House should declare any Order in it.

Touching the Members of the House being covered at the Trial, the Committee thinks it not fit for them to deliver any Opinion, only they offer the difference that may be when both Houses meet, or Committees of both Houses, and the present Case, where the Lords are to meet as a House, and the Commons as a Committee of their House.

Resolved upon the Question, That the House shall sit this Afternoon, and shall meet at Two of the Clock.

Mr. *Bellasis* went up to the Lords with this Message, To desire their Lordships, That in regard this House is much straitned in time, and hath great Affairs in hand, and will sit this Afternoon, and may have occasion of a Conference with their Lordships, that they will be pleased to sit likewise.

E. of *Strafford's*
Petition read.

The humble Petition of *Thomas* Earl of *Strafford* was this day read, wherein he desires, That he may make use of some Members of this House, nominated in his Petition, as Witnesses at his Trial; and the House leaves those Members, nominated in the said Petition, to do therein as they shall please, without their giving any offence to the House.

Mr. *Martin* is to go up to the Lords, to desire a free Conference with their Lordships by the same Committee that was formerly appointed, touching the matter of the last free Conference concerning the Trial of the Earl of *Strafford*.

Ordered, That those Members of the House, that are appointed to manage the Evidence at the Trial of the Earl of *Strafford*, shall have Power, if any Witnesses be produced for the Earl, to ask if they have been sworn, and if it shall appear that they have been sworn; or if any shall be sworn at the Bar, to forbear to proceed any further in the managing of their Evidence, until they have resorted unto the House, and have received further Order.

All the Orders that concern the Proceedings against the Earl of *Strafford* are required to be Copied out, for the Service of the Committee.

The Names of the Members of the House of Commons, appointed to manage the Evidence against Thomas Earl of Strafford at his Trial before the House of Peers, upon an Impeachment of High Treason.

George Lord *Digby*.

John Hampden, } Esquires.
John Pym,

Oliver St. John, Esq; shortly after Solicitor-General to King *Charles* the First.

Sir Walter Earle, Knight.

Jeoffery Palmer, afterwards Knighted, and made Attorney-General to King *Charles* the Second.

John Maynard, Esq; afterwards Serjeant at Law to King *Charles* the Second.

John Glyn, Esq; Recorder of *London*, afterwards Sworn one of the Council to King *Charles* the Second.

The

The Place for the appearance of the Lord Lieutenant was the great Hall in *Westminster*; where there was a Throne erected for the King, on each side whereof a Cabinet, inclosed about with Boards, and before with Arras: before that were the Seats for the Lords of the Upper-House, and sacks of Wooll for the Judges, before them ten Stages of Seats extending farther than the midst of the Hall, for the Gentlemen of the House of Commons; at the end of all was a Desk closed about and set apart for the Lord Lieutenant and his Counsel.

The great Hall in *Westminster* appointed for the Trial of Thomas Earl of Strafford.

On Monday Morning, March 22. about Seven of the Clock, he came from the Tower, accompanied with six Barges, wherein were one hundred Souldiers of the Tower, all with Partizans, for his Guard, and fifty pair of Oars: At his landing at *Westminster*, there he was attended with two hundred of the Trained Band, and went in guarded by them into the Hall. The entries at *Whitehall*, *Kingstreet* and *Westminster*, were guarded by the Constables and Watch-men, from four of the Clock in the Morning, to keep away all base and idle persons.

Monday.

The King, Queen, and Prince came to the House about Nine of the Clock, but kept themselves private within their Closets, only the Prince came out once or twice to the Cloth of State; So that the King saw and heard all that passed, but was seen of none. Some give the reason of this from the received practise of *England* in such Cases: Others say, That the Lords did intreat the King, either to be absent, or to be there privately, lest pretentions might be made hereafter, that His being there was either to threaten, or some other ways to interrupt the Course of Justice. A third sort, That the King was not willing to be accessary to the Process, till it came to His Part; but rather chose to be present, that he might observe and understand if any Violence, Rigour, or Injustice happened. When the Lieutenant entered the Hall, the Porter of the Hall (whose Office it is) asked Master *Maxwell*, Whether the Ax should be carried before him or no? Who did Answer, That the King had expressly forbidden it; nor was it the Custom of *England* to use that Ceremony, but only when the Party Accused was to be put upon his Jury. Those of the House of Lords did sit with their Heads covered, those of the House of Commons uncovered. The Bishops upon the Saturday before did voluntarily decline the giving of their Suffrages in matters Criminal, and of that nature, according to the provision of the Cannon Law, and practise of the Kingdom to this day, and therefore would not be present; yet withall they gave in a Protestation, that their absence should not prejudice them of that, or any other Priviledge competent to them, as the Lords Spiritual in Parliament, which was accepted.

The Earl of *Arundel*, as Lord High Steward of *England*, sat apart by himself, and at the Lieutenant's Entry, Commanded the House to proceed. Master *Pym* being Speaker of the Committee for his Accusation, gave in the same Articles, which were presented at his last being before the Upper House, which being read, his Replies were subjoyned and read also, the very same which were presented before in the Upper House: Some gave the reason of this, because the House of Commons had not heard those Accusations in Publick before. Others, that the formality of the Process required no less, however that day was spent in that Exercise.

The Queen went from the House about Eleven of the Clock, the King and Prince staid till the meeting was dissolved, which was after Two. The Lieutenant was sent to the Tower by his Guard, and appointed to

return upon *Tuesday* at Nine of the Clock in the Morning. The crowd of people was neither great nor troublesome, all of them saluted him, and he them, with great humility and courtesie, [both at his Entrance and at his Return,] therefore let Fame pretend what it please about the malice and discontent of the Multitude, *That if he pass the stroke of Justice, they will tear him in pieces*; yet there is more in Rumor than in Sight and Appearance; and in this Report, as in all others of this nature, more is thrust upon the Vulgar (who seem as well fearful of Punishment, as exempt from it, for all their great number) than they did justly deserve at this time.

Monday, March 22. 1640. Post Merid.

The House of Commons spent the Forenoon in the first days Trial of *Thomas Earl of Strafford* in *Westminster-Hall*: But in the Afternoon the House Ordered, That in case the Earl of *Strafford* shall ask leave, or shall have liberty given him to speak any thing by way of Defence, before such time as the Members appointed to manage the Evidence, shall enter into the managing of their Evidence, that then they shall Interpose; and if so be that notwithstanding such Interposition, the Lords shall give him leave so to speak, that then they shall forbear to proceed any further in the managing of their Evidence, until they have Reported unto the House, and received further Order from them.

Ordered, That the House shall meet to morrow in *Westminster-Hall* as a Committee; and that the House sit to morrow in the Afternoon at Two of the Clock.

Ordered, That the Committee formerly appointed shall attend at the doors, at the Entrance of the place prepared for the Committee of the House of Commons, at the Trial of *Thomas Earl of Strafford*.

Tuesday, March 23. 1640. Post Merid.

Sir *Philip Stapleton* went up to the Lords with this Message, To desire a free Conference by a Committee of both Houses, concerning their joyning with this House to Petition His Majesty, To disband the new-levied *Irish Army*, Disarming the *Papists* Recusants, and the removal of *Papists* from Court; especially those formerly named, viz. Mr. *Walter Montague*, Sir *Kenelme Digby*, Sir *John Winter*, and Sir *Toby Mathew*.

Sir *Walter Earle* and Mr. *Reynolds* are to manage this Conference, and are to move the Lords, to appoint a Petition to His Majesty, and are to inforce their desire of removing the *Papists* from Court by that Circumstance of Mr. *Walter Montague* appearing Yesterday, before both Houses, at the Trial of the Earl of *Strafford*.

Ordered, That the House meet as a Committee in *Westminster-Hall* at Eight of the Clock, and in the House at Two in the Afternoon, which they are constantly to observe *De die in diem* during the Trial.

The House does Expect that all the Members of the House should conform themselves to the Order made for Regulating matters at the Trial of *Thomas Earl of Strafford*; and that the Committee appointed for that business shall complain of any that Conform not thereunto.

Wednesday,

Wednesday, March 24th, 1640. Post Merid.

Ordered, That Mr. Treasurer and Mr. Comptroller move His Majesty, That the Committees for the Earl of *Strafford* may have the perusal of *Sir Edward Cook's Pleas of the Crown*.

Ordered, That no Member of the House shall stand in the place appointed for the Earl of *Strafford's* Witnesses, at the time of his Trial, unless they be such as by the said Earl be required to be there as Witnesses.

Ordered, That Sir *Henry Mildmay* move the Lord High Chamberlain, that the door at the Entrance in at the Room, appointed for those that manage the Evidence at the Trial of *Thomas Earl of Strafford*, be kept shut, and that there be some other passage for the Members to come into the House at, and Captain *Charles Price* is added to the Committee appointed to Regulate matters at the Trial of *Thomas Earl of Strafford*.

Ordered, That no Member of the House Confer with the Earl of *Strafford* during the time of the Trial.

Thursday, March 25th, 1641. Post Merid.

Ordered, That the Committee appointed to manage the Evidence at the Trial of *Thomas Earl of Strafford*, shall have liberty to proceed upon such Articles, as they shall think most Important for the speediest expediting of the Trial, and to contract and proceed in such manner as they shall think most expedient.

Ordered, That the Committee for the Earl of *Strafford* presently withdraw into the Court of Wards, to prepare Heads for a Conference, to be desired with the Lords, concerning the preventing of all Delays in the speedier expediting the Trial of *Thomas Earl of Strafford*.

Sir *John Culpepper* Reports from the Committee that was appointed to draw Heads for a Conference to be desired with the Lords, concerning the preventing of all Delays in the Trial of the Earl of *Strafford*, to this purpose :

To Represent to the Lords the necessity of Expediting the Earl of *Strafford's* Trial, in respect of the pressing Occasions of both Houses, and of the Estate of the whole Kingdom, which will be much interrupted and prejudiced by the Protraction of this Trial: In this Consideration the House of Commons desired their Lordships, that they would be pleased to prevent all unnecessary Delays which may be occasioned by the Earl of *Strafford's* impertinent Exceptions, which as they will take up much time in Debate, so they may occasion frequent Adjournments, the which we desire their Lordships to take into Consideration, that they may be avoided.

Resolved upon the Question, That this shall be the Subject of the Conference.

Sir *Jo. Eveling* went up to the Lords, to desire a Conference concerning the Trial of the Earl of *Strafford*; and Sir *Jo. Culpepper* is appointed to manage this Conference.

Monday, March 29th, 1641. Post Merid.

Sir *Thomas Barington* is appointed to go up to the Lords, to desire a Conference by a Committee of both Houses, concerning the Trial of *Thomas Earl of Strafford*.

This House doth conceive, That the Examination of the Lord Primate of *Ireland*, already taken, is not to be urged, in regard none of the Members of this House were present at the taking of it, but the Examination of him (provided) that some of the Committee appointed to manage the Evidence at the Trial be present thereat, this House will not oppose it, saving their own Rights; and in like cases the House leaves it to the Committee to proceed in such manner as they shall think agreeable to Law and Justice. And this to be the Subject Matter of the Conference, and Mr. *Whitlock* is to manage it.

Friday, April 2. 1641. Post Merid.

Mr. *Pym* went up to the Lords, to desire, That such of their Lordships as this House shall have occasion to make use of, in the Trial of the Earl of *Strafford*, would be pleased to be present at the said Trial, and by Name the Lord Treasurer, Lord Admiral, Earl of *Bristol*, Earl of *Holland*, and Lord *Conway*, be also named to the House, with some other Lords that the House should have occasion to make use of; namely, the Lord Primate of *Armagh*, E. *Morton*, and Lord *Newburgh*.

Mr. *Pym* likewise nominated some Members of this House, viz. Mr. Treasurer, Sir *William Pennyman*, Sir *John Hotham*, Sir *Hugh Cholmly*, Mr. *Henry Cholmy*, Mr. *Thomas Price*, Sir *John Strangways*, Mr. Controller, Mr. *Henry Piercy*, Sir *William Envidale*, Sir *Frederick Cornwallis*, Sir *Henry Mildmay*, Mr. *Nichols*, Mr. *Fines*, Sir *Thomas Heale*, Sir *Thomas Barington*, Mr. *Herbert Price*; a Note of these Names was given to the Serjeant at Arms, attending on this House; and he is Ordered to give Notice to the Members of the Lords, to be present upon all occasions.

Saturday, April 3. 1641. Post Merid.

The Petition of *Thomas Earl of Strafford* was this day read, and the like Order made upon it, as was made upon the Petition of the 20th of *March*.

Tuesday, April 6th, 1641. Post Merid.

The humble Petition of *Thomas Earl of Strafford* was read, and the same Order made upon it as was upon that of the 20th of *March*.

Friday, April 9th, 1641. Post Merid.

The Lord *Russel* is appointed to go up to the Lords, to desire a Conference by a Committee of both Houses, concerning the Proceedings in the Trial of *Thomas Earl of Strafford*.

The Heads of the free Conference to be to this effect:

To acquaint the Lords with the great Necessities of the Kingdom, the Pressures of the Time, and how much time has been spent in this Trial:
How

How prejudicial it will be to the Kingdom, if any more then has been be spent, and therefore to desire that to morrow may be appointed for a Peremptory day, for the Earl of *Strafford* to be heard, if he will come; otherwise that the Committee of this House may proceed to the Replication to the whole matter, and the Earl of *Strafford* to be absolutely concluded, for saying any more to the matter of Fact.

Mr. *Pym* is to manage this Conference, and Mr. *Glyn* and Mr. *Hampden* are joyned unto him as Assistants.

Mr. *Pym* acquaints the House, That he hath delivered to the Lords what he was intrusted with by this House, concerning the Trial of *Thomas* Earl of *Strafford*. They gave no other Answer, then that they would send Answer by Messengers of their own.

A Message from the Lords by Baron *Hendon* and Mr. *Heath*.

That the Lords have taken the last Message to this House into Consideration, and have Resolved, That if the Earl of *Strafford* come to morrow, he may proceed according to the former Order; if he comes not, that then this House may proceed to Sum up the Evidence as to matter of Fact, and the Earl of *Strafford* to be concluded as to matter of Fact.

Saturday, April 10th, 1641. Post Merid.

Mr. *Glyn* Reports from the Committee, for the Earl of *Strafford*, some Grounds concerning the farther Evidence that is offered by the Committee to corroborate the Evidence upon the latter part of the 23. Article. And thereupon Sir *Henry Vane* the younger and Mr. *Pym* are appointed by this House, to declare their whole knowledge concerning the matters contained in the 23. Article against the Earl of *Strafford*, and how, and by what means they came to the knowledge thereof, which when they had done, what Paper was produced by Mr. *Pym*, and so much of it read by him as concerned the Earl of *Strafford*: And then it was Resolved upon the Question, That the Paper whereof Mr. *Pym* had now read in part, shall be all of it read, which was done; and Notice being given of a Message from the Lords, It was Ordered, That all the Members keep their Seats, and go not out of the House without leave.

Resolved upon the Question, That the Bill of Attainder of the Earl of *Strafford* of High Treason shall be now read.

And accordingly the Bill was twice read.

Monday, April 12. Post Merid.

The Heads of a Conference to be desired with the Lords touching the Proceedings against the Earl of *Strafford*.

1. The Narrative of the Evidence the Committee intended to have given on *Saturday* last, concerning which they resorted to the House of Commons for further Direction, to which Evidence two Members of this House were ready to depose.

The House fell into a great and long debate of the second Head. And in the mean time Mr. *Hampden* went up to the Lords with this Message, to signifie unto their Lordships, That this House is now in Debate of a business of great Importance, which they do intend to Communicate unto their Lordships, but are not yet fully ready for a Conference; and therefore they do intreat their Lordships would be pleased to sit a little while, and they hope they shall come up very suddenly unto them.

The

The Earl of *Strafford's* Committee who retired to prepare the Second Head, after some stay returned and presented this following to the House for a Second Head, which was read and allowed of by the House, (*viz.*)

2. That the House having taken Consideration thereof, did conceive it very material, that in regard of the Danger and Distractions of the present Times, and that what time might be spent in Debate touching the admitting of the Evidence, they Resolved to come to a general Reply, setting aside that Evidence for this time, saving to themselves their Rights, to make use of the said Evidence, for the farther Prosecution of the 23. Article, if their Lordships shall be unsatisfied concerning the same, without admitting the said Earl of *Strafford* to examine upon any of the other Articles, which the House doth do, to the end, that the business might come to some speedy Conclusion, the loss of time being of extream Danger and ill Consequence to the Common-wealth, as they conceive.

Mr. *Hampden* brings Answer, That the Lords will sit a convenient time.

3. The third Head, That upon occasion of discovery of this Evidence, a Paper was read in the House, whereby it did appear, that at the same time when the dangers abroad were spoken by the Earl of *Strafford*, touching the bringing the *Irish* Army into *England*, other words were spoken by two others then present, descyphered by those Letters *L. Arch.* and *L. Cott.* (by which We conceive is meant the Lord Archbishop of *Canterbury* and Lord *Cottington*,) very full of Pernicious Counsels to the King, and Slander to the Commons Assembled in the last Parliament; as will appear, if their Lordships will be pleased to hear the Papers read, which Paper the Committee is commanded to read, and leave it to their Consideration, and to desire that their Lordships will take some course, that it may be duly examined by whom these words were spoken, that there may be some further Proceedings, to prevent the dangers that may ensue thereupon, and that those Counsels may be looked into, and searched to the bottom.

These three Heads were all severally put to the Question, and by Resolution upon the Question, Ordered to be the Heads of this Conference.

Mr. *Stroud* went up to the Lords with this Message, to desire a Conference with their Lordships, by a Committee of both Houses, touching the Proceedings against the Earl of *Strafford*, and some other matters lately discovered.

Ordered, That at the next sitting of the House the Bill for the Attainder of the Earl of *Strafford* shall be read the second time, and Mr. Speaker is to put the House in mind of this Order.

A Message from the Lords by Mr. *Heath* and Serjeant *Glanvil*.

The Lords desire a present Conference, by a Committee of both Houses, in the *Painted-Chamber*, if it may stand with the conveniency of this House, concerning the last Conference about the Proceedings against the said Earl.

Answer returned by the same Messengers, That this House has taken their Lordships Message into Consideration, and will give a present meeting, as is desired.

The Committee appointed to manage the Evidence at the Trial, are appointed Reporters of this Conference.

Mr. *Glyn* Reports the Conference with the Lords to this purpose:

That the Lord Steward spake in the Name of the Lords, and did declare, That their Lordships are Resolved this House may proceed, as formerly was intended, before the offer of further Evidence to be pro-

pro-

propounded, the Earl of *Strafford* to recollect his Evidence first, and that being done, the Members of the House of Commons to state their Evidence, and this to be done to morrow morning, whereof they will give the Earl of *Strafford* Notice.

Tuesday, April 13th, 1641. Post Merid.

The House only met and adjourned till the next morning.

Wednesday, April 14th, 1641. Post Merid.

An Act was read the second time for the Attainder of *Thomas Earl of Strafford* of High Treason, upon the Question, Committed unto a Committee of the whole House, Mr. Speaker sitting by.

The Order for Resolving the House into a Committee, to Consider of the Bill, for the Attainder of *Thomas Earl of Strafford* of High Treason, was read, and accordingly the House was Resolved into a Committee, and Mr. *Peard* called to the Chair.

Then Mr. Speaker assumed the Chair.

A Message from the Lords by Judge *Reeves* and Serjeant *Glanville*, That their Lordships have appointed to hear the Council of the Earl of *Strafford* to morrow at Eight of the Clock in *Westminster-Hall*, concerning the matter of Law.

Thursday, April 15th, 1641. Post Merid.

Mr. *Arthur Capel* went up to the Lords with a Message, To desire a free Conference by a Committee of both Houses, concerning the Proceedings against *Thomas Earl of Strafford*, so soon as it may stand with their Lordships Conveniency.

Mr. *Solicitor*,

Mr. *Maynard*,

Mr. *Glyn*,

Sir *John Culpepper*,

Mr. *Pym*,

Mr. *Whitlock*,

Mr. *Whistler*,

Mr. *Stroud*.

As a Committee are to retire presently into the Committee-Chamber, to prepare Heads for a Conference, concerning the Proceedings against the Earl of *Strafford*.

Mr. *Maynard* Reports from this Committee, the Heads of the Conference to be desired with the Lords, concerning the Proceedings against the Earl of *Strafford*, to this effect.

1. To offer unto their Lordships, that it was last night Five of the Clock before this Intimation of their Lordships Intentions, to hear the Earl of *Strafford*'s Council, came to this House.

2. That upon some Conferences heretofore had with their Lordships, a saving was made by this House in the Point, Whether Counsel should be heard or not? and it's not now time to consider, Whether they should depart from this saving.

3. Great difficulties to know to what purpose the Counsel shall be heard, the Case not being stated, agreed on, or made, when to propound the danger and inconveniencies; if his Counsel make a Case, and ravel into all our Evidence in such an Auditory; and whether to put the Case

as it is alledged in the Articles, that the Evidence of Fact being given, it was in Propositions, from the beginning, to go by way of Bill, and that a Bill is Exhibited here for his Attainder.

That the Proceedings, by way of Bill, stands in no way of opposition to those Proceedings, that have already been in this business. These several Considerations make more difficulty in this House, than to come to a sudden and present Resolution.

Resolved upon the Question, That these shall be the Heads of this Conference; the Committee appointed to prepare the Heads, are likewise appointed to manage and Report the Conference, if occasion be.

Mr. *Maynard* Reports, That the Earl Marshall acquainted them, that he had made a Report of what had been delivered by the House of Commons, and they had entred into Debate about it, and so soon as they had come to a Resolution, they would send Answer by Messengers of their own. But in the mean time they had put off the hearing of the Earl of *Strafford's* Counsel for this day.

Ordered, That the House be Resolved into a Committee, to debate further the Bill of Attainder of *Thomas Earl of Strafford*.

A Message from the Lords by Judge *Foster* and Mr. *Heath*, That the Lords desire a free Conference, by a Committee of both Houses, concerning the business of the Proceedings against the Earl of *Strafford* presently, (if it may stand with the conveniency of this House) in the *Painted-Chamber*.

Answer returned by the same Messengers, That this House will give a meeting presently, as is desired.

The same Committee that managed the Conference this morning, are to manage this, and to Report it, if occasion be. Mr. *Fines* is added to the Committee; if any new matter be propounded by the Lords at this Conference, the Committee is to give no Answer unto it, but to Report it to the House.

Mr. *Whitlock* Reports this Conference, That the Lord *say* told them, That they had taken into Consideration the great business, and were not absolutely Resolved how it should proceed, that the Earl of *Strafford's* Counsel should have Notice to attend there to morrow, and should not speak to any matter of Fact, but to matter of Law; only it was afterwards said by another Lord, That the time was so short, that they had Resolved not to send for him, till they heard from this House.

Friday, April 16th, 1641. Post Merid.

Ordered, That the House do first take into Consideration the Report of the Conference with the Lords Yesterday, concerning the Proceedings against the Earl of *Strafford*.

Resolved upon the Question, That it is sufficiently proved, that the Earl of *Strafford* hath endeavoured to subvert the ancient and Fundamental Laws of the Realms of *England* and *Ireland*, and to introduce Arbitrary and Tyrannical Government against Law.

Mr. *Peard* went up to the Lords with a Message to this effect:

That this House at present is in Debate of a great business, and fear they cannot come to a Resolution so soon as to come to their Lordships for a Conference this Afternoon; If they can, they Resolve to sit this Afternoon, and desire their Lordships to do the like, if it may stand with their Conveniency.

Mr.

Mr. *Peard* brings Answer, That their Lordships will meet at Four of the Clock.

Resolved upon the Question, That a Committee of the whole House shall hear the Earl of *Strafford's* Counsel in *Westminster-Hall*, concerning matter of Law.

Ordered, That the House do this Afternoon take the Proceedings against the Earl of *Strafford* into further Consideration.

The Committee is to retire presently into the Committee-Chamber, to prepare Heads for a Conference to be desired with the Lords, concerning the further Proceedings against the Earl of *Strafford*.

Mr. *Maynard* Reports the Heads of this Conference to this effect :

1. To take Notice of their Lordships Resolution, to hear the Earl of *Strafford's* Council in matter of Law.

2. To put their Lordships in mind of the saving of this House in that Point, and further to tell them, That if after his Council shall be heard, any doubt shall remain with their Lordships, they shall be ready to satisfy them in due time.

3. That to this end they do intend to send a Committee of this House, only to hear what his Council shall say. These Particulars raised some Debate in the House, and being put to the Question, the House was divided upon it ; but yet after the Tellers were appointed, the *Noes* yielded to the *Yeas* without telling.

4. To desire that their Lordships will be pleased to use all Expedition to put an end to this Trial, as much as in Justice may be.

5. To desire a continuance of their Care, that the Counsel, under colour of speaking to the matter of Law, ravel not into the matter of Fact.

Sir *Robert Harly* went up to the Lords, to desire a free Conference with their Lordships by a Committee of both Houses, upon the free Conference had Yesterday with their Lordships, concerning the further Proceedings against the Earl of *Strafford*.

Sir *Robert Harly* brings Answer, That their Lordships will give a present meeting, as is desired.

The Committee that was appointed to prepare Heads for the Conference, concerning the further Proceedings against the Earl of *Strafford*, are to manage this Conference, and to Report it, if occasion be.

Ordered, That the Committee formerly appointed to preserve places for the Committee of the whole House in *Westminster-Hall*, do apply their Endeavours in that Service.

A Message from the Lords by Justice *Foster* and Justice *Heath*, That the Lords have sent this Message, that they will be set to morrow at ten in the Forenoon in *Westminster-Hall*, to hear the Earl of *Strafford's* Council in matter of Law.

Saturday, April 17th, 1641. Post Merid.

Ordered, That the House be Resolved into a Grand Committee, to take into further Consideration the Bill of Attainder of *Thomas Earl of Strafford*.

Mr. Speaker left the Chair, Mr. *Peard* was called to the Chair of the Grand Committee, and Mr. Speaker again assumed the Chair.

Ordered, That the Debate of the Bill of Attainder of the Earl of *Strafford*, be resumed on *Monday* morning at Seven of the Clock.

H

Monday,

Monday, April 19th, 1641.

Ordered, That after the Conference shall be ended, the House shall again be Resolved into a Committee, to resume the farther Debate of the Earl of *Strafford*, and all the Members are required to return from the Conference to the House.

Resolved upon the Question, That the endeavour of *Thomas* Earl of *Strafford* to subvert the Ancient and Fundamental Laws of the Realm of *England* and *Ireland*, and to Introduce an Arbitrary and Tyrannical Government, against Law, in both these Kingdoms, is High Treason.

The Lord Digby's Speech in the House of Commons, to the Bill of Attainder of the Earl of Strafford, April 21. 1641.

Mr. Speaker, We are now upon the Point of giving (as much as in Us lies) the Final Sentence unto Death or Life on a great Minister of State, and Peer of this Kingdom, *Thomas* Earl of *Strafford*, a Name of hatred in the present Age, by his Practices, and fit to be made a Terroure to future Ages by his Punishment.

I have had the Honour to be Employed by the House in this great business, from the first hour that it was taken into Consideration; It was matter of great Trust, (and I will say with confidence) that I have served the House in it both with Industry, according to my ability, and with most exact Faithfulness and Secrecy.

And as I have hitherto discharged my Duty to this House, and to my Country, in the Progress of this Great Cause, so I trust I shall do now in the last period of it, to God and to a good Conscience.

I do wish the peace of that unto my self, and the blessings of Almighty God to me and my Posterity, according as my judgment on the life of this man shall be consonant with my heart, and the best of my understanding in all Integrity.

I know well Mr. Speaker, that by some things I have said of late, whilst this Bill, was in agitation, I have raised some prejudices upon me in the Cause.

Yea some (I thank them for their plain dealing) have been so free as to tell me, that I suffered much by the backwardness I have shewn in this Bill of Attainder of the Earl of *Strafford*, against whom I had been formerly so keen and so active.

Mr. Speaker, I beg of you and the rest but a suspension of Judgment concerning me, till I have opened my heart unto you freely and clearly in this business.

Truly Sir, I am still the same in my Opinions and Affections, as unto the Earl of *Strafford*, I confidently believe him the most dangerous Minister, the most insupportable to free Subjects that can be characted.

I believe his Practices in themselves have been as High, as Tyrannical, as any Subject ever ventured on, and the malignity of them are hugely aggravated by those rare abilities of his, whereof God hath given him the use, but the Devil the application (in a word) I believe him still that grand Apostate to the Common-wealth, who must not expect to be pardoned in this World, till he be dispatched to the other. And yet let me tell you Mr. Speaker, my hand must not be to that dispatch, I protest, as my Conscience stands informed, I had rather it were off.

Let

Let me unfold unto you the mystery Mr. Speaker, I will not dwell much upon justifying unto you my seeming variance at this time from what I was formerly, but by putting you in mind of the difference between Prosecutors and Judges.

How misbecoming that fervour would be in a Judge, which perhaps was commendable in a Prosecutor; Judges we are now, and must put on another Personage.

It is honest and noble to be earnest in order to the discovery of Truth, but when that hath been brought as far as it can to light, our judgment thereupon ought to be calm and cautious.

In prosecution upon probable Grounds, we are accountable only for our industry or remissness, but in judgment; We are deeply responsible to God Almighty, for it's Rectitude or Obliquity in Cases of Life, the Judge is God's Steward of the Parties blood, and must give a strict account for every drop.

But as I told you Mr. Speaker, I will not insist long upon the Ground of Difference in me now, from what I was formerly.

The truth on't is, Sir, the same Ground whereupon I (with the rest of the Five, to whom you first committed the Consideration of my Lord *Strafford*) brought down our Opinion, That it was fit he should be Accused of Treason, upon the same Ground I was engaged with earnestness in his Prosecution, and had the same Ground remained in that force of belief with me, which, till very lately it did, I should not have been tender in his Condemnation. But truly, Sir, to deal plainly with you, that Ground of our Accusation, That Spur to our Prosecution, and that which should be the basis of my judgment, of the Earl of *Strafford*, as unto Treason, is to my understanding quite vanished away.

This it was, Mr. Speaker,

His Advising the King to employ the Army of *Ireland*, to reduce *England*.

This I was assured would be proved, before I gave my consent to his Accusation. I was confirmed in the same belief, during the Prosecution, and fortified in it most of all since Sir *Henry Vane*'s preparatory Examination, by the assurances which that worthy Member, Mr. *Pym* gave me, that his Testimony would be made convincing, by some Notes of what passed at that *Junto* concurrent with it, which I ever understanding to be of some other Councillor, you see now, prove but a Copy of the same Secretaries Notes, discovered and produc'd in the manner you have heard, and those such disjoyned Fragments of the Venemous part of Discourses, no Results, no Conclusions of Counsels, which are the only things that Secretaries should Register, there being no use at all of the other, but to Accuse and to bring men into danger.

But, Sir, this is not that which overthrows the Evidence with me, concerning the Army of *Ireland*, nor yet, that all the rest of the *Junto*, upon their Oaths, remember nothing of it.

But this, Sir, which I shall tell you, is that which works with me, under favour, to an utter overthrow of his Evidence, as unto that of the Army of *Ireland*; before, whilst I was a Prosecutor, and under tie of Secrecy, I might not discover any weakness of the Cause, which now as a Judge I must.

Mr. Secretary was examined thrice upon Oath, at the preparatory Committee.

The first time he was questioned to all the Interrogatories, and to that part of the Seventh, which concerns the Army of Ireland: He said positively in these words, *I cannot Charge him with that.* But for the rest, he desires time to recollect himself, which was granted him.

Some days after he was Examined a second time, and then deposes these words, concerning the King's being Absolved from Rules of Government, and so forth, very clearly. But being prest to that part, concerning the *Irish Army*, He said again, *I can say nothing to that.*

Here we thought we had done with him, till divers weeks after, my Lord of *Northumberland*, and all others of the *Junto*, denying to have heard any thing concerning those words, Of reducing *England* by the *Irish Army*. It was thought fit to Examine the Secretary once more, and then he deposes these words to have been said by the Earl of *Strafford* to His Majesty, *You have an Army in Ireland, which you may Employ here, to reduce (or some word to that sense) this Kingdom.*

Mr. Speaker, these are the Circumstances which, I confess with my Conscience, thrust quite out of doors that Grand Article of our Charge, concerning his desperate Advice to the King, of Employing the *Irish Army* here.

Let not this, I beseech you, be driven to an Aspersion upon Mr. Secretary, as if he should have Sworn otherwise than he knew or believed; he is too worthy to do that; only let thus much be inferred from it, that he, who twice upon Oath, with time of recollection, could not remember any thing of such a business, might well a third time mis-remember somewhat in this business, the difference of one letter, here for there, or that for this, quite alters the Case, the latter also being more probable, since it is confest of all hands, that the Debate then was concerning a War with *Scotland*; and you may remember, that at the Bar he once said, *To employ there.* And thus, Mr. Speaker, I have faithfully given you an account what it is that hath blunted the edge of the Hatchet or Bill with me towards my Lord of *Strafford*.

This was that whereupon I Accused him with a free heart, Prosecuted him with earnestness, and had it, to my understanding, been proved, should have condemned him with Innocence. Whereas now I cannot satisfy my Conscience to do it.

I profess, I can have no notion of any bodies intent to subvert the Laws Treasonably, or by force; and this design of Force not appearing, all his other wicked Practises cannot amount so high with me.

I can find a more easie and more natural Spring, from whence to derive all his other Crimes, than from an intent to bring in Tyranny, and to make his own Posterity, as well as Us, Slaves; as from Revenge, from Pride, from Avarice, from Passion, and Insolence of Nature.

But had this of the *Irish Army* been proved, it would have diffused a Complexion of Treason over all, it would have been a Withe, indeed, to bind all those other scattered and lesser branches, as it were, into a Faggot of Treason.

I do not say but the rest may represent him a man as worthy to die, but perhaps worthier than many a Traytor. I do not say, but they may justly direct Us to Enact, That they shall be Treason for the future.

But God keep me from giving Judgment of Death on any man, and of Ruine to his innocent Posterity, upon a Law made *a Posteriori*.

Let the Mark be set on the door where the Plague is, and then let him that will enter die.

I know,

I know, Mr. Speaker, there is in Parliament a double Power of Life and Death by Bill, a Judicial Power, and a Legislative; the measure of the one, is what's legally just; of the other, what is Prudentially and Politically fit for the good and preservation of the whole. But these two, under favour, are not to be confounded in Judgment: We must not piece up want of legality with matter of convenience, not the defailance of prudential fitness with a pretence of legal Justice.

To Condemn my Lord of *Strafford* Judicially, as for Treason, my Conscience is not assured that the matter will bear it.

And I do it by the Legislative Power, my reason consultively cannot agree to that, since I am perswaded, neither the Lords nor the King will pass the Bill, and consequently that Our passing it will be a Cause of great Divisions and Combuitions in the State.

And therefore my humble advice is, That laying aside this Bill of Attainder, We may think of another, saving only Life, such as may secure the State from my Lord of *Strafford*, without endangering it, as much by Division concerning his Punishment, as he hath endangered it by his Practices.

If this may not be hearkned unto, Let me conclude, in saying that unto you all, which I have throughly inculcated to mine own Conscience upon this occasion. Let every man lay his hand upon his Heart, and sadly consider what We are going to do, with a Breath, either Justice or Murther; Justice on the one side, or Murther heightned and aggravated to its supreamest extent. For as the *Casuists* say, That he who lies with his Sister commits Incest, but he that marries his Sister sins higher, by applying God's Ordinance to his Crime: So doubtless he that commits Murther with the Sword of Justice, heightens that Crime to the utmost.

The danger being so great, and the Case so doubtful, that I see the best Lawyers in diametral opposition concerning it: Let every man wipe his Heart, as he does his Eyes, when he would Judge of a nice and subtile Object. The Eye if it be pretincted with any colour, is vitiated in its discerning. Let Us take heed of a blood-shotten Eye in Judgment.

Let every man purge his Heart clear of all passions, (I know this great and wise Body-politick can have none, but I speak to individuals, from the weakness which I find in my self) away with personal Animosities, away with all flatteries to the people, in being the sharper against him, because he is odious to them; away with all fears, lest by the sparing his blood they may be incens'd; away with all such Considerations, as that it is not fit for a Parliament, that one Accused by it of Treason, should escape with Life.

Let not former Vehemence of any against him, nor fear from thence, that he cannot be safe while that man lives, be an ingredient in the Sentence of any one of Us.

Of all these Corruptives of Judgment, Mr. Speaker, I do before God discharge my self to the uttermost of my power.

And do with a clear Conscience wash my hands of this mans blood, by this solemn Protestation, That my Vote goes not to the taking of the Earl of *Strafford's* Life.

Ordered, That the Debate of the Bill of Attainder of the Earl of *Strafford*, be resumed to morrow Morning at Eight of the Clock, and Mr. Speaker is to put the House in mind of this Order.

Ordered,

Ordered, That Sir *Edward Cook's* Book, *Of the Pleas of the Crown*, be delivered to the Earl of *Strafford's* Committee, for the special Service of the House.

Tuesday, April 20th, 1641. Post Merid.

The Committee, according to Yesterdays Order, reassumed the Debate of the Bill of Attainder of the Earl of *Strafford*.

Mr. Speaker reassumed the Chair.

Ordered, That the House sit this Afternoon at Three of the Clock, and reassume the Debate of the Bill of Attainder against *Thomas* Earl of *Strafford*.

(Afternoon.)

The House Resolved into a Committee, Mr. *Peard* being called to the Chair, then Mr. Speaker reassumed the Chair.

Ordered, That the further Debate of the Bill of Attainder of the Earl of *Strafford*, be reassumed to morrow Morning at Eight of the Clock.

Wednesday, April 21th, 1641. Post Merid.

According to an Order Yesterday made, the House was Resolved into a Committee to Consider of the Bill of Attainder of *Thomas* Earl of *Strafford*. Mr. *Peard* being called to the Chair, then Mr. Speaker reassumed the Chair.

Ordered, That the Doors be lock'd, and the Keys brought up to the Table, and that no man go out without leave of the Committee.

Mr. *Peard* again called to the Chair.

Mr. *Peard* Reports from the Grand Committee the Bill of Attainder of the Earl of *Strafford*, with the Additions and Amendments thereunto, the which Addition and Amendments were twice read, and the Bill upon the Question Ordered to be Engrossed.

(Afternoon.)

Ordered, That the House meet this Afternoon at Three of the Clock, and the third time read an Act for the Attainder of *Thomas* Earl of *Strafford* of High Treason; and upon the Question for the Passing, the House was divided. The Lord *Digby*, Mr. *Lloyd* Tellers for the *Yeas*, Sir *Gilbert Gerrard*, Sir *Thomas Barington* Tellers for the *Noes*; with the *Noes* 59, with the *Yeas* 204. Upon the Report thereof the Bill Paſt.

Mr. *Pym* is appointed to carry up the Bill to the Lords, and was further Ordered to expreſs unto the Lords, That it is a Bill that highly concerns the Common-wealth, eſpecially in the expediting of it.

Mr. *Pym* acquaints the House, That according to the Commands of this House, he had delivered the Bill of Attainder, with special Recommendations for the Expedition in regard of the Importance, and that this House was ready to juſtifie the Legality of the Bill, if any way their Lordships ſhould deſire a Conference by a Committee of both Houſes; the ſooner and the more publick the way, ſhall be the better, and the more agreeable to the deſires of this Houſe.

Thursday, April 22th, 1641. Post Merid.

A Meſſage from the Lords by Judge *Reeve* and Judge *Forſter*.

The Lords have agreed to hear this Houſe in *Westminster-Hall* at Eight of the Clock on *Saturday* next, touching the matter of Law in the buſineſs of the Earl of *Strafford*, if this Houſe ſhall ſo pleaſe.

Answer

Answer returned by the same Messengers, That this House has taken their Lordships Message into Consideration, and will send an Answer by Messengers of their own.

Mr. Solicitor *St. John* is enjoyned by this House to maintain the legal part of the Bill of Attainder of *Thomas Earl of Strafford* on *Saturday Morning* next, and Mr. *Maynard* and Mr. *Glyn* are adjoyned unto him as Assistants.

Sir *John Eveling* went up to the Lords with this Message, to desire a free Conference by a Committee of both Houses, concerning their Lordships Message sent this day, touching the matter of Law in the Case of the Trial of the Earl of *Strafford*.

Mr. *Pym*, Mr. *Pierepoint*, Sir *John Culpepper*, Mr. *Fines*, Mr. *Hampden*, and Mr. *Prideaux*, are to prepare Heads for this Conference with the Lords, and to manage the Conference.

Sir *John Eveling* brings Answer, That their Lordships will give a present meeting, by a Committee of the whole House, as is desired.

The Heads of the Conference, Reported by Mr. *Pierepoint*, to be desired with the Lords, touching the matter of Law in the Case of the Earl of *Strafford*.

That this House received a Message from their Lordships this day, to this effect, That their Lordships are ready to hear this House in *Westminster-Hall* on *Saturday Morning* next, touching the Point of Law in the Case of *Thomas Earl of Strafford*, they conceive, this did arise from the Message of this House upon the delivery of the Bill of Attainder of the Earl of *Strafford*. That this House is ready at a Conference by a Committee of both Houses, to justify the Justice and Legality of the Bill of Attainder.

Mr. *Pym*, Mr. *Stroud*, Sir *Thomas Barrington*, Mr. *Hollis*, and Sir *Jo. Hotham*, are to prepare Heads for this Conference, and to manage it.

Mr. *Pierepoint* Reports the Conference had with the Lords, touching the matter of Law, in the Case of the Earl of *Strafford*. My Lord Privy-Seal said, That the intention of their House was to have proceeded in the former way, to have heard the Council upon the legal part; but since it is your desire to have a Committee of both Houses, to meet at the time and place before appointed; the day being now far spent, and finding something of moment to be considered of, their Lordships will send an Answer by Messengers of their own in time convenient, and therefore shall not meet on *Saturday* in *Westminster-Hall*, but will sit on *Saturday* in their own House.

Friday, April 23th, 1641. Post Merid.

Exceptions were taken by divers Members of the House to the Lord *Digby*, for many Passages in a Speech of his, delivered at the passing of the Bill of Attainder of the Earl of *Strafford*. The Lord *Digby* rose up, and in his place explained himself, touching those several Passages, and there was no more done thereupon at this time.

Saturday, April 24th, 1641. Post Merid.

Two Petitions from divers of the Citizens of *London* were this day read. (1.) To the House of Commons. (2.) To the Honourable Assembly of the Lords and Commons, as followeth:

To

The Petition
of divers Citi-
zens of *London*
to both Houses
of Parliament,
wherein is an
account of
their Grievan-
ces, together
with their de-
sires for Ju-
stice to be exe-
cuted upon the
E. of *Strafford*,
and other De-
linquents.

To the most Honourable Assembly of the Lords and Commons in this present Parliament.

The humble Petition of divers Citizens of London.

SHEWETH,

That notwithstanding His Majesties Gracious Answer, to the humble Petition of his Loyal Subjects, in Summoning this Parliament, with the great Care and Endeavoured pains taken by both Houses, for the removing the heavy Grievances in Church and Common-wealth; whereof the Petitioners have already received some Fruit, for which they desire to return their most humble and utmost Thanks; yet nevertheless they are enforced, with all Humility, to represent to this most Honourable Assembly, some of those Obstructions which do still hinder that freedom and fulness of Trade in this City they have formerly had, and, which considering the numerous multitude thereupon depending, they conceive it not able comfortably to subsist.

As the unsettled Condition of the Kingdom, even since the Troubles in *Scotland*, hath caused both Strangers, and also some of our own, who did furnish great Sums of Money to use, to call it in, and remit much of it by Exchange into Forreign Parts, and stand now in expectation of what the Issue of things may be.

The stopping Money in the Mint, which till then was accounted the safest place, and surest Staple in these Parts of the World, still doth hinder the Importation of Bullion; the *Scots* now disabled to pay such Debts as they owe to the Petitioners, and others in the City; and by reason of the Oppressions exercised in *Ireland*, their Debts also are detained there.

The *English*-Trade, by reason of our general Distractions and Fears, is so much decayed, that Country Trades-men cannot pay their Debts in *London* as formerly.

The great Sums of Money unduly taken by His Majesties Officers and Farmers, for Impositions upon Merchandize Exported and Imported, and the want of Relief in Courts of Justice against them.

The drawing out from the City great Sums of Money (which is the Life and Spirit of Trade) for His Majesties Service in the *North*, and being there employed, is not yet returned.

Besides all which, from what strong and secret Opposition the Petitioners know not; they have not received what so much time and pains might give and cause to hope, but still Incendiaries of the Kingdoms, and other Notorious Offenders, remain unpunished: The Affairs of the Church, notwithstanding many Petitions concerning it, and long Debate about it, remains unsettled; the *Papists* still Armed, the Laws against them not Executed, some of the most Active of them still at Court, Priests and Jesuits not yet Banished, the *Irish* Popish-Army not yet Disbanded, Courts of Justice not yet Reformed, and the Earl of *Strafford*, who as now appears, hath Counsell'd the Plundering of this City, and putting it to Fine and Ransom; and said, It would never be well, till some of the Aldermen were hang'd up, because they would not yield to Illegal Levies

Levies of Monies, had so drawn out and spent this time in his business, to the very great Charge of the whole Kingdom, and his endeavour to obtain yet more, all which makes us fear there may be Practices now in hand to hinder the Birth of your great Endeavours, and that we lie under some more dangerous Plot than we can discover.

All which Premisses, with their Fears and Distractions, growing therefrom, and from things of the like nature; the Petitioners humbly offer to the most grave Consideration of this most Honourable Assembly, as being the true Causes of decay of Trade, discouragement of Trades-men, and of the great scarcity of Monies, with the Consequences they labour under.

And do humbly pray, That their said Grievances may be Redressed, the Causes of their Fears removed, Justice executed upon the said Earl, and other Incendiaries and Offenders, the rather, in regard till then the Petitioners humbly conceive neither Religion, nor their Lives, Liberties, or Estates can be secured.

And as in Duty bound, they shall ever pray, &c.

Subscribed to the Petition 20000, all Men of good Rank and Quality.

After the Petition was Read and Considered.

The Lord *Russel* goes up to the Lords with this Message, to desire a Conference, by a Committee of both Houses, concerning a Petition from the City of *London*, directed to both Houses of Parliament.

Mr. *Glyn* is Ordered to manage this Conference, and Mr. *Hill* to assist him, and to deliver the Petition from the Citizens of *London* at this Conference, and thence to take occasion of representing the Desires of this House; likewise for the Expediting of the Bill of Attainder of the Earl of *Strafford*.

Monday, April 26th, 1641. Post Merid.

A Message from the Lords by Judge *Reeves* and Judge *Heath*, That they are ready for a Conference, by a Committee of both Houses, to the Petition presented from *London*, for which this House sent a Message on *Saturday* last.

Answer returned by the same Messengers, That this House has taken their Lordships Message into Consideration, and will give a meeting presently, as is desired.

According to an Order on *Saturday* last, Mr. *Glyn* and Mr. *Hill* went up to manage this Conference, and Sir *Walter Earle* is Ordered to manage Mr. *Pym*'s part, in respect of his absence at this time.

Tuesday, April 27th, 1641. Post Merid.

A Message from the Lords by Judge *Foster* and Judge *Heath*, That their Lordships will be ready to meet at a Conference, by a Committee of both Houses, at Nine of the Clock upon *Thursday* Morning in *Westminster-Hall*, and there to hear this House, according to their own offer, when they brought up the Bill of Attainder of the Earl of *Strafford*.

Answer returned by the same Messengers, That this House has taken their Lordships Message into Consideration, and is Resolved to give a meeting at the time and place, as is appointed.

Wednesday, April 28th, 1641. Post Merid.

Ordered, That Mr. Solicitor *st. John* have Power to send for such Records, as he shall think needful for that Service committed unto him, for maintaining the Point of Law, in the Case of the Earl of *Strafford*.

The same Committee as was formerly appointed to keep the Doors at *Westminster-Hall*, is appointed to keep the Doors again to morrow.

Mr. Solicitor, and Mr. *Maynard*, and Mr. *Glyn*, appointed as Assistants unto him, are to sit in the most convenient places in the middle of the lower Rank.

Mr. *Edward Hide* went up to the Lords with this Message, to acquaint their Lordships, That the House hath received such Information, as hath moved some Fears in them, that the Earl of *Strafford* may have a design to Escape, that he hath Ships at Sea at Command, and that the Guards about him are weak; therefore to desire their Lordships he may be a close Prisoner, and the Guards strengthened.

Mr. *Hide* brings this Answer, That their Lordships had heretofore given Directions to the Lieutenant of the *Tower*, that he should be close Prisoner, and take Care for a stronger Guard, and will take it into Examination, and give Directions as is desired.

Friday, April 30th, 1641. Post Merid.

Ordered, That Mr. Solicitor be required from this House, to bring in a particular Copy of his Argument Yesterday in *Westminster-Hall*, and likewise that Mr. *Pym* bring him a Copy of the Speeches spoken by him in *Westminster-Hall*, both at the beginning and latter end of the Trial of the Earl of *Strafford*.

A Copy

A Copy of the Paper posted up at the Corner of the Wall of Sir William Brunkard's House, in the Old Palace-Yard in Westminster, declaring the following Names to be Enemies of Justice.

The Lord Digby,	Mr. Trevanyon,
Lord Compton;	Mr. Jeane,
Lord Buckhurst,	Mr. Edcombe,
Sir Robert Hatton,	Mr. Ben. Weston,
Sir Thomas Fanshaw,	Mr. Selden,
Sir Edward Alford.	Mr. Alford,
Nicholas Slanning,	Mr. Loyd,
Sir Thomas Danby,	Mr. Herbert,
Sir George Wentworth,	Captain Digby,
Sir Peter Wentworth,	Serjeant Hyde,
Sir Fred. Cornwallis,	Mr. Tayler,
Sir William Carnaby.	Mr. Richard Weston,
Sir Richard Winn,	Mr. Griffith,
Sir Gervas Clifton,	Mr. Scawen,
Sir William Withrington,	Mr. Bridgman,
Sir William Penhym,	Mt. Fettyplace,
Sir Patrick Carwin,	Doctor Turner,
Sir Richard Lee,	Captain Charles Price,
Sir Henry Slingsby,	Doctor Parry a Civilian,
Sir William Portman,	Mr. Richard Arundel,
Mr. Gervas Hollis,	Mr. Newport,
Mr. Sydney Godolphin,	Mr. Nowell,
Mr. Cook,	Mr. Chicbley,
Mr. Coventry,	Mr. Mallory,
Mr. Kirton,	Mr. Porter,
Mr. Pollard,	Mr. White, Secretary to E. D.
Mr. Price,	Mr. Warwick

It is a Presumption that these Names were thus Posted up by some of those who came in multitudes to the Parliament House, but he that took the List of their Names (as Mr. Elsing told the Author) was one Mr. W— who Served for some Borough in the County of Wilts, and who did not afterwards go to the King at Oxford in time of War, though his Wife did; but he staid in the Parliament to do what friendly Office he could for the King and his Party: It is probable he gave a Copy of those Names to some Friends, not intending to have the same made Publick in that manner. The Name of one Member of the House that was in the List, who is omitted in this, viz. Sir John Strangways, who was not then in Town, but Sir John, after his Return out of Dorsetshire, complained that his Name was Posted up amongst others, and moved, that the business might be Examined how the List came abroad, and was made Publick, as aforesaid, he being then in the Country.

A Memorial of the Member that first took the Names.

Wednesday, May 5th, 1641.

Mr. Solicitor is appointed to bring in his Argument he made in Westminster-Hall, at the Trial of the Earl of Strafford on Monday last.

A Message from the Lords by Judge *Reeves* and Judge *Forster*, That they give this House Thanks for sitting so long, that they are still in Debate of the Bill against the Earl of *Strafford*, so that this Night they cannot be ready for a Conference.

Saturday, May 8th, 1641.

A Message from the Lords by Judge *Forster* and Judge *Heath*, That the Bill of Attainder of *Thomas* Earl of *Strafford* is passed their House, without any Alteration or Amendments.

Ordered, That a Message be sent to the Lords, to desire a free Conference, by a Committee of both Houses, concerning the Bill of Attainder of *Thomas* Earl of *Strafford*.

Mr. *Hotham* is to go up with this Message, Mr. *Pym* is to manage this Conference, the substance whereof is:

That in regard the Peace of the Kingdom doth much consist in the Execution of the Bill of Attainder of *Thomas* Earl of *Strafford*, to desire their Lordships to move His Majesty as speedily as may be to give His Assent.

Mr. *Hotham* brings Answer, That the Lords will give a present meeting at a free Conference, by a Committee of both Houses, as is desired.

Mr. *Pym* Reports, That he had performed the Command of this House.

Ordered, That this House shall joyn with the Lords, to attend His Majesty, to appoint a time when He would be pleased to set, concerning His Assent to the Bill of Attainder of *Thomas* Earl of *Strafford*.

Mr. *Pym* brings word, That the Lords have sent to His Majesty, and this House shall hear from them very speedily.

A Message from the Lords by Judge *Forster* and Judge *Heath*, That the Lords appointed by their House, attended His Majesty, who appointed that both Houses should attend Him at Four of the Clock in the Banqueting-House, concerning the Bill of Attainder: That they have Passed the Bill concerning the not Dissolving the Parliament.

Monday, May 10th, 1641.

The Gentleman-Usher of the Black-Rod came to signify to the House, That His Majesties Assent to the Bill of Attainder is now to be given by Commission, and that the Lords did expect Mr. Speaker and the House of Commons to come up.

Articles

Articles of the Commons Assembled in Parliament
against *Thomas Earl of Strafford*, in Maintenance
of their Accusation, whereby he stands Charged
with High Treason.

Whereas the said Commons have already Exhibited Articles
against the said Earl, in hæc verba, Now the said Commons
do further Impeach the said Earl as followeth, (That is to say,)

I.

That the said Earl of Strafford the 21th day of March, in the Eighth
Year of His Majesties Reign, was President of the King's Council in
the Northern parts of England.

That the said Earl being President of the said Council on the 21th of
March, a Commission under the Great Seal of England, with certain
Schedules of Instructions thereunto annexed, was directed to the said
Earl, or others the Commissioners therein named, whereby, among
other things, Power and Authority is limited to the said Earl, and
others the Commissioners therein named, to hear and determine all
Offences, and Misdemeanors, Suits, Debates, Controversies and De-
mands, Causes, Things and Matters, whatsoever therein contained,
and within certain Precincts in the said Northern Parts therein spe-
cified, and in such manner as by the said Schedule is limited and
appointed.

That, amongst other things, in the said Instructions, it is directed,
That the said President, and others therein appointed, shall hear and
determine according to the course of Proceedings in the Court of Star-
Chamber, divers Offences, Defaults and Faults therein mentioned,
whether the same be provided for by Acts of Parliament or not, so that
the fines imposed be not less than by the Act or Acts of Parliament pro-
vided against those Offences is appointed.

That also amongst other things in the said Instructions, it is directed,
That the said President, and others therein appointed, have Power to
examine, hear, and determine, according to the course of Proceedings
in the Court of Chancery, all manner of Complaints, for any matter,
within the said Precincts, as well concerning Lands, Tenements, and
Hereditaments, either Freehold, Customary, or Copyhold, as Leases,
and other things therein mentioned, and to stay Proceedings in the
Court of Common Law by Injunction, or otherwise, by all ways and
means, as is used in the Court of Chancery.

And although the former Presidents of the said Council had never put
in practice such Instructions, nor had they any such Instructions, yet
the said Earl in the month of May in the said Eighth Year, and divers
years following, did put in practice, exercise and use, and caused to be
used and put in practice the said Commission and Instructions, and did
direct and exercise an exorbitant and unlawful Power and Jurisdiction
over the Persons and Estates of His Majesties Subjects, in those parts,
and

and did disinherit divers of His Majesties Subjects in those parts of their Inheritances, Sequestered their Possessions, and did fine, Ransome, Punish, and Imprison them; and caused them to be fined, Ransomed, Punished and Imprisoned, to their Ruine and Destruction; and namely, Sir Coniers Darcy, Sir John Bourcher, and divers others, against the Laws, and in subversion of the same. And the said Commission and Instructions were procured and issued by advice of the said Earl.

And he the said Earl, to the intent that such Illegal and Unjust Power might be exercised with the greater Licence and Will, did advise, counsel, and procure further Directions; in and by the said Instructions to be given, that no Prohibition be granted at all, but in cases where the said Council shall exceed the limits of the said Instructions: And that if any Writ of Habeas Corpus be granted, the party be not discharged till the party perform the Decree and Order of the said Council.

And the said Earl in the 13th Year of His Majesties Reign, did procure a new Commission to himself, and others therein appointed, with the said Instructions, and other unlawful Additions.

That the said Commission and Instructions were procured by the Solicitation and advice of the said Earl of Strafford.

II.

That shortly after the obtaining of the said Commission, dated the 21th of March, in the Eighth Year of His Majesties Reign, (to wit) the last day of August then next following, he the said Earl (to bring His Majesties Liege-people into a dislike of His Majesty, and of His Government, and to terrifie the Justices of the Peace from executing of the Laws: He the said Earl, being then President, as aforesaid, and a Justice of Peace) did publiquely at the Assizes held for the County of York, in the City of York, in and upon the said last day of August, declare and publish before the people, there attending for the administration of Justice according to Law, and (in the presence of the Justices sitting) that some of the Justices were all for Law, and nothing would please them but Law; but they should find that the King's little finger should be heavier than the Loines of the Law.

III.

That the Realm of Ireland having been time out of mind annexed to the Imperial Crown of this His Majesties Realm of England, and Governed by the same Laws: The said Earl being Lord Deputy of that Realm, to bring His Majesties Liege-Subjects of that Kingdom likewise into dislike of His Majesties Government, and intending the subversion of the Fundamental Laws, and settled Government of that Realm, and the destruction of His Majesties Liege-people there, did upon the 30th day of September, in the Ninth Year of His now Majesties Reign, in the City of Dublin (the chief City of that Realm, where His Majesties Privy-Council, and Courts of Justice do ordinarily reside, and whither the Nobility and Gentry of that Realm do usually resort for Justice,) in a publick Speech before divers of the Nobility and Gentry of that Kingdom, and before the Mayor, Aldermen, and Recorder, and many Citizens of Dublin, and other His Majesties Liege-people, declare and publish, That Ireland was a Conquered Nation,

Nation, and that the King might do with them what he pleased; and speaking of the Charters of former Kings of England made to that City, he further then said, That their Charters were nothing worth, and did bind the King no further than he pleased.

IV.

That Richard Earl of Cork, having sued out Process in course of Law for recovery of his Possessions, from which he was put, by colour of an Order made by the said Earl of Strafford, and the Council-Table of the said Realm of Ireland, upon a Paper-Petition, without Legal proceeding, did the 20th day of February, in the Eleventh Year of His now Majesties Reign, threaten the said Earl (being then a Peer of the said Realm) to imprison him, unless he would surcease his Suit, and said, That he would have neither Law nor Lawyers dispute or question his Orders. And the 20th day of March, in the said Eleventh Year, the said Earl of Strafford, speaking of an Order of the said Council-Table of that Realm, made in the time of King James, which concerned a Lease, which the said Earl of Cork claimed in certain Rectories or Tythes which the said Earl of Cork alledged to be of no force, said, That he would make the said Earl, and all Ireland know, that so long as he had the Government there, any Act of State, there made, or to be made, should be as binding to the Subjects of that Kingdom as an Act of Parliament; And did question the said Earl of Cork in the Castle-Chamber there, upon pretence of breach of the said Order of Council-Table, and did sundry other times, and upon sundry other occasions, by his words and speeches arrogate to himself a Power above the fundamental Laws, and Established Government of that Kingdom, and scorned the said Laws and Established Government.

V.

That according to such his Declarations and Speeches, the said Earl of Strafford did use and exercise a Power above and against, and to the subversion of the said fundamental Laws, and Established Government of the said Realm of Ireland, extending such his Power, to the Goods, Freeholds, Inheritances, Liberties and Lives of His Majesties Subjects of the said Realm; and namely, the said Earl of Strafford the 12th day of December, Anno Domini, 1635. in the time of full Peace, did, in the said Realm of Ireland, give and procure to be given against the Lord Mountnorris (then and yet a Peer of the said Realm of Ireland, and then Vice-Treasurer and Receiver-General of the Realm of Ireland, and Treasurer at War, and one of the Principal Secretaries of State, and keeper of the Privy-Signet of the said Kingdom,) a Sentence of Death, by a Council of War called together by the said Earl of Strafford, without any Warrant or Authority of Law or Offence, deserving any such punishment. And he the said Earl did also at Dublin, within the said Realm of Ireland, in the Month of March, in the Fourteenth Year of His Majesties Reign, without any Legal or due Proceedings or Trial, give and cause to be given, a Sentence of Death against one other of His Majesties Subjects, whose name is yet unknown, and caused him to be put to Death, in execution of the same Sentence.

VI.

VI.

That the said Earl of Strafford, without any Legal Proceedings, and upon a Paper-Petition of Richard Rollton, did cause the said Lord Mountnorris to be disseised, and put out of Possession of his Freehold and Inheritance of his Mannor of Tymore in the County of Armagh, in the Kingdom of Ireland, the said Lord Mountnorris having been 18 years before in quiet possession thereof.

VII.

That the said Earl of Strafford, in the Term of holy Trinity, in the Thirteenth Year of his now Majesties Reign, did cause a Case, commonly called The Case of Tenures upon defective Titles, to be made and drawn up without any Jury or Tryal, or other Legal Process, and without the consent of Parties, and did then procure the Judges of the said Realm of Ireland, to deliver their Opinions and Resolutions to that case, and by colour of such Opinion, did without any Legal proceeding, cause Thomas Lord Dillon, a Peer of the said Realm of Ireland, to be put out of the possession of divers Lands and Tenements, being his Freehold in the Country of Mayo and Roscomen, in the said Kingdom, and divers other of his Majesties Subjects to be put out of Possession, and disseised of their Freehold by colour of the same Resolution, without Legal proceedings, whereby many hundreds of his Majesties Subjects were undone, and their Families utterly ruined.

VIII.

That the said Earl of Strafford, upon a Petition of Sir John Gifford Knight, the first day of February, in the said Thirteenth Year of his Majesties Reign, without any Legal Process, made a Decree or Order against Adam Viscount Loftus of Ely, a Peer of the said Realm of Ireland, and Lord Chancellor of Ireland, and did cause the said Viscount to be imprisoned, and kept close Prisoner, on pretence of Disobedience to the said Decree or Order.

And the said Earl, without any Authority, and contrary to his Commission, required and commanded the said Lord Viscount to yield up unto him the Great Seal of the Realm of Ireland, which was then in his Custody, by his Majesties Command, and imprisoned the said Chancellor for not obeying such his Command.

And without any Legal Proceeding, did in the same Thirteenth Year imprison George Earl of Kildare, a Peer of Ireland, against Law, thereby to enforce him to submit his Title to the Mannor and Lordship of Castleleigh in the Queens Country, (being of great yearly value) to the said Earl of Strafford's Will and Pleasure, and kept him a year Prisoner for the said cause; two months whereof he kept him close Prisoner, and refused to enlarge him, notwithstanding his Majesties Letters for his Enlargement to the said Earl of Strafford directed.

And upon a Petition exhibited in October, Anno Domini 1635. by Thomas Hibbotts, against Dame Mary Hibbotts Widow, to him the said Earl of Strafford; the said Earl of Strafford recommended the said Peti-

Petition to the Council-Table of Ireland, where the most part of the Council gave their Note and Opinion for the said Lady; but the said Earl finding fault herewith, caused an Order to be entred against the said Lady, and threatned her, that if she refused to submit thereunto, he would imprison her, and fine her five hundred pounds; that if she continued obstinate, he would continue her Imprisonment, and double her fine every month; by means whereof she was enforced to relinquish her Estate in the Lands questioned in the said Petition, which shortly after were conveyed to Sir Robert Meredith, to the use of the said Earl of Strafford.

And the said Earl in like manner did imprison divers others of His Majesties Subjects, upon pretence of Disobedience to his Orders, Decrees, and other illegal Command by him made for pretended Debts, Titles of Lands, and other Causes in an Arbitrary and extrajudicial course, upon Paper-Petitions, to him preferred, and no Cause legally depending.

IX.

That the said Earl of Strafford the Sixteenth day of February, in the Twelfth Year of His Majesties Reign, assuming to himself a Power above and against Law, took upon him by a general Warrant under his hand, to give Power to the Lord Bishop of Down and Connor his Chancellor, or Chancellors, and their several Officers thereto to be appointed, to attach and arrest the Bodies of all such of the meaner and poorer sort, who after Citation should either refuse to appear before them, or appearing, should omit or deny to perform, or undergo all lawful Decrees, Sentences, and Orders, issued, imposed, or given out against them, and them to commit and keep in the next Gaol, until they should either perform such Sentences, or put in sufficient Bail to shew some reason before the Council-Table, of such their contempt and neglect; and the said Earl, the day and year last mentioned, signed and issued a Warrant to that effect, and made the like Warrants to several other Bishops and their Chancellors in the said Realm of Ireland to the same effect.

X.

That the said Earl of Strafford being Lord Lieutenant, or Deputy of Ireland, procured the Customs of the Merchandize Exported out, and Imported into that Realm, to be farmed to his own Use.

And in the Ninth Year of His now Majesties Reign, he having then Interest in the said Customs (to advance his own Gain and Lucre) did cause and procure the native Commodities of Ireland, to be rated in the Book of Rates for the Customs (according to which the Customs were usually gathered) at far greater Values and Prices than in truth they were worth (that is to say) every Hyde at Twenty shillings, which in truth was worth but five shillings, every Stone of Wooll at Thirteen shillings four pence, though the same were really worth but five shillings, at the utmost Nine shillings; by which means, the Custom, which before was but a twentieth part of the true value of the Commodity, was enhanced sometimes a fifth part, and

sometimes to a fourth, and sometimes to a third part of the true value, to the great Oppression of the Subjects, and decay of Merchandise.

XI.

That the said Earl, in the Ninth Year of His Majesties Reign, did by his own Will and Pleasure, and for his own Lucre, restrain the Exportation of the Commodities of that Kingdom without his Licence, as namely, Pipe-staves, and other Commodities, and then raised great Sums of Money for Licences of Exportation of those Commodities, and dispensation of the said Restraints imposed on them, by which means the Pipe-staves were raised from Four pound ten shillings, or five pound per thousand, to ten pounds, and sometimes Eleven pound per thousand; and other Commodities were enhanced in the like proportion, and by the same means, by him the said Earl.

XII.

That the said Earl, being Lord Deputy of Ireland, on the Ninth day of January, in the Thirteenth Year of His now Majesties Reign, did then under colour to regulate the Importation of Tobacco into the said Realm of Ireland, issue a Proclamation in His Majesties Name, prohibiting the Importation of Tobacco, without Licence of Him and the Council there, from and after the first day of May, Anno Dom. 1638. after which Restraint, the said Earl, notwithstanding the said Restraint, caused divers great quantities of Tobacco to be Imported to his own use, and freighted divers Ships with Tobacco, which he Imported to his own use: and that if any Ship brought Tobacco into any Port there, the said Earl, and his Agents, used to buy the same to his own use, at their own price; and if that the Owners refused to let him have the same at under values, then they were not permitted to vent the same there; by which undue means, the said Earl having gotten the whole Trade of Tobacco into his own hands, he sold it at great and excessive prizes, such as he list to impose for his own profit.

And the more to assure the said Monopoly of Tobacco, he the said Earl on the Thre and twentieth day of February, in the Thirteenth Year aforesaid, did issue another Proclamation, commanding that none should put to sale any Tobacco by Whole-Sale, from and after the last day of May, then next following, but what should be made up into Rolls, and the same sealed with two Seals by himself appointed, one at each end of the Roll. And such as was not sealed, to be seized, appointing six pence the pound for a Reward to such persons as should seize the same: and the persons in whose custody the unsealed Tobacco should be found, to be committed to Gaol; which last Proclamation was coloured by a pretence for the restraining of the sale of unwholesome Tobacco, but it was truly to advance the said Monopoly.

Which Proclamation the said Earl did rigorously put in execution, by seizing the Goods, Fining, Imprisoning, Whipping, and putting the Offenders against the same Proclamation on the Pillory; as namely, Barnaby Hubbard, Edward Cavena, John Tumen, and divers others; and made the Officers of State, and Justices of Peace, and other Officers to serve him in the compassing and executing these unjust and undue Courses,

Courses, by which Cruelties, and unjust Monopolies, the said Earl raised 100000 l. per annum gain to himself. And yet the said Earl though he enhanced the Customs, where it concerned the Merchants in general, yet drew down the Impost, formerly taken on Tobacco, from Six pence the pound to Three pence the pound, it being for his own profit so to do.

And the said Earl, by the same, and other rigorous and undue means, raised several other Monopolies and unlawful Exactions for his own gain, viz. on Starch, Iron-pots, Glasses, Tobacco-pipes, and several other Commodities.

XIII.

That Flax being one of the principal and Native Commodities of that Kingdom of Ireland, the said Earl having gotten great quantities thereof into his hands, and growing on his own Lands, did issue out several Proclamations, viz. the one dated the One and thirtieth day of May, and the Twelfth of His Majesties Reign; and the other dated the One and thirtieth day of January in the same Year, thereby prescribing and enjoining the working of Flax into Yarn and Thread, and the Ordering of the same in such ways wherein the Natives of that Kingdom were unpractized and unskillful: which Proclamations so issued, were by his Commands and Warrants to His Majesties Justices of Peace, and other Officers, and by other rigorous means put in Execution, and the flax wrought or ordered in other manner than as the said Proclamation prescribed, was seized and employed to the use of him and his Agents, and thereby the said Earl endeavoured to gain, and did gain in effect the sole Sale of that Native Commodity.

XIV.

That the said Earl, by Proclamation dated the Sixteenth of October, in the Fourteenth Year of His Majesties Reign, did impose upon the Owners, Masters, Purser, and Boat-Swaines of every Ship, a new and unlawful Oath, viz. That they (or two or more of them) immediately after the arrival of any Ship within any Port or Creek in the said Kingdom of Ireland, should give in a true In-voice of the outward bulk of Wares and Merchandizes first laden aboard them, together with the several marks and number of Goods, and their qualities and condition of the said Goods, as far as to them should be known, the Names of the several Merchants Proprietors of the said Goods, and the place from whence they were freighted, and whither they were Bound to discharge; which Proclamation was accordingly put in Execution, and sundry persons enforced to take the said unlawful Oath.

XV.

That the said Earl of Strafford trayterously and wickedly devised and contrived, by force of Arms, and in a War-like manner, to subdue the Subjects of the said Realm of Ireland, and to bring them under his Tyrannical Power and Will; and in pursuance of his wicked and trayterous Purposes aforesaid, the said Earl of Strafford, in the Eighth Year of His Majesties Reign, did, by his own Authority, without any

Warrant or colour of Law, Tax and Impose great Sums of Money upon the Towns of Baltemore, Bauden-Bridge, Talowe, and divers other Towns and Places in the said Realm of Ireland; and did cause the same to be levied upon the Inhabitants of those Towns by Troops of Souldiers, with force and Arms, in a War-like manner. And on the Ninth day of March, in the Twelfth Year of His now Majesties Reign, trayterously did give Authority unto Robert Savile, a Serjeant at Arms, and to the Captains of the Companies of Souldiers, in severall parts of that Realm, to send such numbers of Souldiers to lie on the Lands and Houses of such as would not conform to his Orders, until they should render Obedience to his said Orders and Warrants, and after such submission (and not before) the said Souldiers to return to their Garrisons. And did also issue the like Warrants unto divers others, which Warrants were in War-like manner, with force and Arms, put in Execution accordingly; and by such War-like means did force divers of His Majesties Subjects of that Realm, to submit themselves to his unlawful Commands.

And in the said Twelfth Year of His Majesties Reign, the said Earl of Strafford did traiterously cause certain Troops of Horse and Foot, armed in War-like manner, and in War-like array, with force and Arms, to expel Richard Butler from the Possession of the Mannor of Castle-Cumber, in the Territory of Idough, in the said Realm of Ireland, and did likewise, and in like War-like manner, expel divers of His Majesties Subjects from their Houses, families, and Possessions; as namely, Edward O Brenman, Owen Oberman, John Brenman, Patrick Oberman, Sir Cyprian Horsefield, and divers others, to the number of about an hundred families, and took and imprisoned them and their wives, and carried them Prisoners to Dublin, and there detained, until they did yield up, surrender, or release their respective Estates and Rights.

And the said Earl, in like War-like manner, hath during his Government of the said Kingdom of Ireland, subdued divers others of His Majesties Subjects there to his will, and thereby, and by the means aforesaid, hath levied War within the said Realm against His Majesty and His Liege-people of that Kingdom.

XVI.

That the Earl of Strafford, the Two and twentieth of February, in the Seventh Year of His Majesties Reign, intending to Oppress the said Subjects of Ireland, did make a Proposition, and obtained from His Majesty an Allowance thereof, That no Complaint of Injustice or Oppression done in Ireland, should be received in England against any, unless it appeared, that the party made first his address to him the said Earl; and the said Earl having by such Usurped tyrannical and exorbitant Power, expressed in the former Articles, Destroyed and Oppressed the Peers, and other Subjects of that Kingdom of Ireland, in their Lives, Consciences, Land, Liberties and Estates; the said Earl to the intent the better to maintain and strengthen his said Power, and to bring the people into a disaffection of His Majesty, as aforesaid, did use His Majesties Name in the execution of the said Power.

And to prevent the Subjects of that Realm of all means of Complaints to His Majesty, and of redress against him and his Agents, did issue a Proclamation, bearing date the Seventeenth day of September, in the Eleventh

Eleventh Year of His Majesties Reign, thereby commanding all the Nobility, Undertakers, and others who held Estates and Offices in the said Kingdom, (except such as were employed in His Majesties Service, or attending in England by His special Command) to make their personal residence in the said Kingdom of Ireland, and not to depart thence without Licence of himself.

And the said Earl hath since issued other Proclamations to the same purpose, by means whereof the Subjects of the said Realm are restrained from seeking relief against the Oppressions of the said Earl, without his Licence; which Proclamation the said Earl hath by several rigorous waies, as by Fines, Imprisonment, and otherwise, put in execution on His Majesties Subjects; as namely, one ---- Parry, and others, who came over only to complain of the Exorbitances and Oppressions of the said Earl.

XVII.

That the said Earl having by such means, as aforesaid, subverted the Government and Laws of the Kingdom of Ireland, did, in March, in the Sixteenth Year of His Majesties Reign, in scandal of His Majesties Government, of all His Kingdoms; and in further Execution of his wicked Purposes aforesaid, speaking of the Army in Ireland, declare, That His Majesty was so well pleased with the Army of Ireland, and the consequences thereof, that His Majesty would certainly make the same a Pattern for all His Three Kingdoms.

XVIII.

That the said Earl of Strafford, for the better effecting of his traitterous Designs, and wicked Purposes, did endeavour to draw dependency upon himself of the Papists in both Kingdoms of England and Ireland, and to that end, during the time of his Government in Ireland, he restored divers Fryeries and Masse-Houses, (which had been formerly suppressed by the precedent Deputies of that Kingdom; two of which Houses are in the City of Dublin, and had been assigned to the use of the University there) to the pretended Owners thereof, who have since imployed the same to the Exercise of the Popish Religion.

And in the month of May and June last, the said Earl did raise an Army in the said Realm, consisting of 8000 Foot, all of which, except one, or thereabouts, were Papists, and the said One thousand were drawn out of the old Army there, consisting of Two thousand Foot, and in their places there were a thousand Papists, or thereabouts, put into the said old Army by the said Earl.

And the more to engage and tie the said new Army of Papists to himself, and to encourage them, and to discourage and weary out the said old Army, the said Earl did so provide: That the said new Army of Papists were duly paid, and had all Necessaries provided for them, and permitted the Exercise of their Religion, but the said old Army were for the space of one whole Year and upwards unpaid.

And

And the said Earl being appointed a Commissioner within eleven several Counties of the Northern parts of England, for Compounding with Recusants for their Forfeitures due to His Majesty; which Commission beareth date the Eighth day of July, in the Fifth Year of His Majesties Reign that now is; and being also Receiver of the Composition-money thereby arising, and of other Debts, Duties, and Penalties, by reason of Recusancy within the said Counties, for His Majesties Use, by Letters Patents dated the Ninth day of the same July; He to engage the said Recusants to him, did Compound with them at low and under Rates, and provided, that they should be discharged of all Proceedings against them in all His Majesties Courts, both Temporal and Ecclesiastical, in manifest breach of, and contrary to the Laws and Statutes of this Realm, in that behalf Established.

XIX.

That the said Earl having Taxed and Levied the said Impositions, and raised the said Monopolies, and committed the said other Oppressions in His Majesties Name; and as by His Majesties Royal Command, he the said Earl in May, the Fifteenth Year of His Majesties Reign, did of his own authority contrive and frame a new and unusual Oath, by the purport whereof, among many other things, the party taking the said Oath, was to swear that he should not protest against any His Majesties Royal Commands, but submit himself in all due obedience thereunto. Which Oath he so contrived to enforce the same on the Subjects of the Scottish Nation, inhabiting in Ireland, and out of a hatred to the said Nation, and to put them to a discontent with His Majesty, and His Government there; and compelled divers of His Majesties said Subjects there to take the said Oath against their wills; and of such as refused to take the said Oath, some he grievously fined and imprisoned, and others he destroyed and exiled; and namely, the Tenth of October, Anno Dom. 1639. he fined Henry Steward and his wife, who refused to take the said Oath, 5000 l. a piece, and their two Daughters and James Gray 3000 l. a piece, and imprisoned them for not paying the said Fines. The said Henry Steward his Wife and Daughters, and James Gray, being the King's Liege-people of the Scottish Nation; and divers others he used in like manner; and the said Earl upon that occasion did declare, That the said Oath did not only oblige them in point of Allegiance to His Majesty, and acknowledgment of His Supremacy only, but to the Ceremonies and Government of the Church Established, and to be established by His Majesties Royal Authority; and said, That the Refusers to obey, he would prosecute to the blood.

XX.

XX.

That the said Earl hath in the 15th and 16th Years of His Majesties Reign, and divers years past, laboured and endeavoured to breed in His Majesty an ill Opinion of His Subjects; namely, of those of the Scottish Nation, and divers and sundry times, and especially since the pacification made by His Majesty with His said Subjects of Scotland in Summer, in the 15th Year of His Majesties Reign, he, the said Earl did labour and endeavour to perswade, incite and provoke His Majesty to an offensive War against His said Subjects of the Scottish Nation: And the said Earl, by his Counsels, Actions, and Endeavours, hath been, and is a principal and chief Incendiary of the War and Discord between His Majesty and His Subjects of England, and the said Subjects of Scotland, and hath declared and advised His Majesty, that the Demands made by the Scots, in their Parliament, were a sufficient cause of War against them.

The said Earl having formerly expressed the height and rancour of his mind towards His Majesties Subjects of the Scottish Nation, viz. the Tenth day of October, in the Fifteenth Year of His Majesties Reign, he said, That the Nation of the Scots were Rebels and Traytors, and he being then about to come to England, he then further said, That if it pleased His Master (meaning His Majesty) to send him back again, he would root out of the said Kingdom (meaning the said Kingdom of Ireland) the Scottish Nation both Root and Branch.

Some Lords, and others, who had taken the said Oath in the precedent Article only excepted: and the said Earl hath caused divers of the Ships and Goods of the Scots to be stayed, seized, and molested, to the intent to set on the said War.

XXI.

That the said Earl of Strafford, shortly after his Speeches mentioned in the last precedent Articles, to wit, in the 15th Year of His Majesties Reign, came into this Realm of England, and was made Lord Lieutenant of Ireland, and continued his Government of that Kingdom by a Deputy: at his arrival here, finding that His Majesty with much Wisdom and Goodness had composed the Troubles in the North, and had a pacification with his Subjects of Scotland; he laboured by all means to procure His Majesty to break that pacification, incensing His Majesty against His Subjects of that Kingdom, and the proceeding of the Parliament there.

And having incited His Majesty to an Offensive War against His Subjects of Scotland by Sea and Land, and by pretext thereof, to raise Forces for the maintenance of that War; he counselled His Majesty to call a Parliament in England, yet the said Earl intended that if the said proceedings of that Parliament should not be such as would stand with the said Earl of Strafford's mischievous Designs, he would then procure His Majesty to break the same; and by ways of force and power, to raise monies upon the Subjects of this Kingdom. And for the encouragement of His Majesty to hearken to his advice, he did before His Majesty and His Privy-Council, then sitting in Council, make a large Declaration, that he would serve His Majesty in any other way, in case the Parliament should not supply him.

XXII.

XXII.

That in the month of March, before the beginning of the last Parliament, the said Earl of Strafford went into Ireland, and procured the Parliament of that Kingdom to declare their Assistance in a War against the Scots, and gave directions for the raising of an Army there, consisting of 8000 foot, and 1000 horse, being for the most part Papists, as aforesaid. And confederating with one Sir George Ratcliff, did together with him the said Sir George traiterously Conspire to employ the said Army for the ruine and destruction of the Kingdom of England, and of His Majesties Subjects, and of altering and subverting of the Fundamental Laws and established Government of this Kingdom.

And shortly after the said Earl of Strafford returned into England, and to sundry persons declared his Opinion to be, that His Majesty should first trie the Parliament here, and if that did not supply him according to his Occasions, he might use then His Prerogative as he pleased, to levy what he needed, and that he should be acquitted both of God and man; he took some other courses to supply himself, though it were against the wills of His Subjects.

XXIII.

That upon the Thirtieth day of April last, the Parliament of England met, and the Commons House (then being the Representative Body of all the Commons in the Kingdom) did accordingly to the Trust reposed in them, enter into Debate and Consideration of the great Grievances of this Kingdom, both in respect of Religion, and the publique Liberty of the Kingdom; and His Majesties referring chiefly to the said Earl of Strafford, and the Archbishop of Canterbury, the ordering and disposing of all matters concerning the Parliament: he the said Earl of Strafford with the assistance of the said Archbishop, did procure His Majesty by sundry Speeches and Messages, to urge the said Commons House to enter into some Resolution for His Majesties supply, for maintenance of His War against His Subjects of Scotland, before any course taken for the relief of the great and pressing Grievances, wherewith this Kingdom was then afflicted. Whereupon a Demand was then made from His Majesty, of Twelve Subsidies, for the release of Ship-money only; and while the said Commons then Assembled (with expression of great affection to His Majesty and His Service) were in Debate and Consideration concerning some supply, before any Resolution by them made, he the said Earl of Strafford, with the help and assistance of the said Archbishop, did procure His Majesty to dissolve the said Parliament, upon the Fifth day of May last: and upon the same day the said Earl of Strafford did treacherously, falsely and maliciously endeavour to incense His Majesty against His loving and faithful Subjects, who had been Members of the said House of Commons, by telling His Majesty, They had denied to supply him. And afterwards upon the same day did traiterously and wickedly Counsel and Advise His Majesty to this effect, viz. that having tried the affections of His People, he was loose and absolved from all rules of Government, and that he was to do every thing that Power would admit, and that His Majesty had tried all ways, and was refused, and should be acquitted towards God

God and man; and that he had an Army in Ireland, (meaning the Army above mentioned, consisting of Papists, his dependants, as is aforesaid) which he might employ to reduce this Kingdom.

XXIV.

That in the same month of May, he the said Earl of Strafford, falsely, traiterously, and maliciously published and declared before others of His Majesties Privy-Council, that the Parliament of England had forsaken the King, and that in denying to supply the King, they had given him advantage to supply himself by other ways, and several other times he did maliciously, wickedly, and falsely publish and declare, That seeing the Parliament had refused to supply His Majesty in the ordinary and usual way, the King might provide for the Kingdom in such waies, as he should hold fit, and that he was not to suffer himself to be mastered by the forwardness and undutifulness of the people.

And having so maliciously slandered the said late House of Commons, he did with the help and advice of the said Archbishop of Canterbury and the Lord Finch, late Lord Keeper of the Great Seal of England, cause to be printed and published in His Majesties Name a false and scandalous Book, entituled, His Majesties Declaration of the Causes that moved Him to Dissolve the last Parliament, full of bitter and malicious Invectives, and false and scandalous aspersions against the said House of Commons.

XXV.

That not long after the Dissolution of the said last Parliament, (viz. in the months of May and June) he the Earl of Strafford, did advise the King to go on bigorously in levying the Ship-money, and did procure the Sheriffs of several Counties to be sent for, for not levying the Ship-money, divers of which were threatened by him to be sued in the Star-Chamber, and afterwards by his advice they were sued in Star-Chamber, for not levying the same, and divers of His Majesties loving Subjects were sent for and imprisoned by his advice, for that and other illegal payments.

And a great loan of a hundred thousand pounds was demanded of the City of London, and the Lord Mayor, and Sheriffs, and Aldermen of the said City were often sent for, by his advice, to the Council-Table, to give an account of their proceedings in raising of Ship-money, and furthering of that loan, and were required to certify the Names of such Inhabitants of the said City as were fit to lend, which they with much humility refusing to do, he the said Earl of Strafford did use these and the like Speeches, viz. That they deserved to be put to fine and Ransom, and that no good would be done with them, till an example were made of them, and that they were laid by the heels, and some of the Aldermen hanged up.

XXVI.

That the said Earl by his wicked Counsels, having brought His Majesty into excessive Charge, without any just cause, he did in the month of July last (for the support of the said great Charges) counsel and approve two dangerous and wicked Projects, viz.

To seize upon the Bullion, and the Money in the Mint.

And to imbase His Majesties Coin with the mixtures of Brass.

And accordingly he procured one hundred and thirty thousand pounds which was then in the Mint, and belonging to divers Merchants, Strangers, and others to be seized on and stayed, to His Majesties use. And when divers Merchants of London, Owners of the said Bullion and Money, came to his house to let him understand the great mischief, that course would produce here, and in other parts, and what prejudice it would be to the Kingdom, by discrediting the Mint, and hindring the importation of Bullion; he the said Earl told them, that the City of London dealt undutifully and unthankfully with His Majesty, and that they were more ready to help the Rebels than to help His Majesty. And that if any hurt came to them, they may thank themselves: and that it was the course of other Princes to make use of such monies to serve their Occasions.

And when in the same month of July, the Officers of His Majesties Mint came to him, and gave him divers reasons against the imbalancing the said money, he told them, That the French King did use to send Commissioners of Horse with Commission to search into mens Estates, and to peruse their Accounts, that so they may know what to levy of them by force, which they did accordingly levy; and turning to the Lord Cottington, then present, said, That this was a point worthy of his Lordships consideration, meaning this course of the French King to raise monies by force, was a point worthy of his Lordships consideration.

XXVII.

That in or about the month of August last, he was made Lieutenant General of all His Majesties Forces in the North, prepared against the Scots, and being at York, did then in the month of September by his own authority, and without any lawful Warrant, impose a Tax on His Majesties Subjects in the County of York of eight pence per diem, for maintenance of every Souldier of the Trained Bands of that County, which sums of money he caused to be levied by force. And to the end to compel His Majesties Subjects out of fear and terrour to yield to the payment of the same, he did declare, that he would commit them that refused the payment thereof, and the Souldiers should be satisfied out of their Estates; and and they that refused it, were in very little better condition than of High Treason.

XXVIII.

That in the months of September and October last, he the said Earl of Strafford, being certified of the Scottish Army coming into the Kingdom, and he the said Earl of Strafford being Lieutenant General of His Majesties Army, he did not provide for the defence of the Town of Newcastle, as he ought to have done, but suffered the same to be lost, that so he might the more incense the English against the Scots.

And for the same wicked purpose, and out of a malicious desire to engage the Kingdoms of England and Scotland in a National and bloody War, he did write to the Lord Conway, the General of the Horse, and under the said Earls Command, that he should fight with the Scottish Army at the passage over the Tyne, whatsoever should follow; notwithstanding that the said Lord Conway had formerly by Letters informed the said Earl, that His Majesties Army, then under his Command, was not of force sufficient to encounter the Scots, by which advice of his, he did, contrary to the duty of his place, betray His Majesties Army, then under his Command, to apparent danger and loss.

All and every which words, counsels and actions of the said Earl of Strafford were spoken, given, and done by him the said Earl of Strafford, traitterously, and contrary to his Allegiance to our Sovereign Lord the King, and with an intention and endeavour to alienate and withdraw the hearts and affections of the King's Liege-people of all his Realms from his Majesty, and to set division between them, and to ruine and destroy his Majesty, and Majesties said Kingdoms, for which they do further impeach him the said Thomas Earl of Strafford of High Treason against our Sovereign Lord the King, his Crown and Dignity. And he the said Earl of Strafford was Lord Deputy of Ireland, or Lord Lieutenant of Ireland; and Lieutenant General of the Army there under his most Excellent Majesty, and a sworn Privy-Counsellor to his Majesty for his Kingdoms both of England and Ireland, and Lord President of the North during the time that all and every the Crimes and Offences before set forth were done and committed, and he the said Earl was Lieutenant General of his Majesties Army in the North parts of England during the time that the Crimes and Offences, in the 27th and 28th Articles, set forth were done and committed.

Tuesday, May 11th, 1641.

Ordered, That Mr. Solicitor give Order, That the Arguments he made in *Westminster-Hall*, touching the matters of Law in the Case of the Earl of *Strafford*, be Printed; and that Mr. *Pym* give the like Order, That his Speeches at the beginning and ending of the Trial of the said Earl of *Strafford* be likewise Printed.

The Names of those Gentlemen that managed the Evidence in this Trial, being, through over-sight, omitted to be inserted in their particular places, for the first Nine Articles; it is thought fit, for more exact satisfaction, to give an account of them in this place, with particular References; which may, by the Reader, be easily supplied.

The Names of the Managers.

<p>Folio 115. Line 17. Mr. <i>Pym</i>. Ibid. Line 33. Mr. <i>Pym</i>. Ibid. Line 40. Mr. <i>Pym</i>. Fol. 116. Line 5. Mr. <i>Pym</i>. Ibid. Line 44. Mr. <i>Pym</i>.</p>	<p>Fol. 117. Line 14. Mr. <i>Maynard</i>. Ibid. Line 43. Mr. <i>Maynard</i>. Fol. 120. Line 20. Mr. <i>Pym</i>. Fol. 124. Line 27. Mr. <i>Pym</i>. Fol. 127. Line 29. Mr. <i>Pym</i>.</p>
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To the First Article.

<p>Fol. 138. Line 29. Mr. <i>Maynard</i>. Fol. 139. Line 3. M. <i>Maynard</i>. Fol. 142. Line 17. M. <i>Maynard</i>. Ibid. Line 24. Mr. <i>Whitlock</i>. Fol. 143. Line 7. Mr. <i>Glyn</i>.</p>	<p>Ibid. Line 15. Mr. <i>Maynard</i>. Ibid. Line 23. Mr. <i>Glyn</i>. Fol. 144. Line 2. Mr. <i>Maynard</i>. Fol. 145. Line 3. Mr. <i>Maynard</i>. Fol. 147. Line 31. Mr. <i>Maynard</i>.</p>
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To

To the Second Article.

Fol. 149. Line 14. Mr. Maynard.
 Fol. 152. Line 14. Mr. Maynard.
 Ibid. Line 18. Mr. Maynard.
 Ibid. Line 32. Mr. Maynard.

Fol. 153. Line 6. Mr. Glyn.
 Ibid. Line 16. Mr. Maynard.
 Fol. 154. Line 4. Mr. Maynard.
 Fol. 155. Line 7. Mr. Maynard.

To the Third Article.

Fol. 156. Line 8. Mr. Maynard.
 Ibid. Line 22. Mr. Glyn.
 Ibid. Line 28. Mr. Maynard.
 Ibid. Line 36. Mr. Maynard.
 Fol. 157. Line 11. Mr. Maynard.
 Fol. 158. Line 2. Lord Digby.
 Ibid. Line 37. Mr. Maynard.
 Fol. 163. Line 42. Mr. Maynard.

Fol. 164. Line 9. Mr. Maynard.
 Ibid. Line 17. Mr. Maynard.
 Fol. 165. Line 7. Sir Jo. Clotworthy.
 Fol. 167. Line 25. Mr. Pym.
 Fol. 168. Line 16. Mr. Pym.
 Ibid. Line 25. Mr. Pym.
 Ibid. Line 34. Mr. Maynard.
 Fol. 171. Line 28. Mr. Maynard.

To the Fourth Article.

Fol. 173. Line 30. Mr. Glyn.
 Fol. 174. Line 8. Mr. Glyn.
 Fol. 179. Line 44. Mr. Glyn.
 Fol. 180. Line 37. Mr. Maynard.

Fol. 183. Line 10. Mr. Maynard.
 Fol. 184. Line 11. Mr. Glyn.
 Fol. 185. Line 1. Mr. Maynard.

To the Fifth Article.

Fol. 185. Line 21. Mr. Glyn.
 Fol. 188. Line 17. Mr. Glyn.
 Fol. 198. Line 1. Mr. Glyn.
 Fol. 201. Line 19. Mr. Glyn.
 Fol. 202. Line 7. Mr. Maynard.

Ibid. Line 35. Mr. Maynard.
 Fol. 202. Line 31. Mr. Maynard.
 Ibid. Line 36. Mr. Maynard.
 Fol. 204. Line 5. Mr. Glyn.

To the Sixth Article.

Fol. 205. Line 6. Mr. Glyn.
 Fol. 206. Line 31. Mr. Glyn.
 Ibid. Line 37. Mr. Glyn.
 Fol. 210. Line 38. Mr. Glyn.
 Fol. 213. Line 23. Mr. Glyn.
 Ibid. Line 29. Mr. Glyn.

Fol. 216. Line 22. Mr. Maynard.
 Fol. 217. Line 21. Mr. Palmer.
 Fol. 218. Line 17. Mr. Glyn.
 Ibid. Line 21. Mr. Glyn.
 Fol. 219. Line 32. Mr. Stroud.

To the Eighth Article.

Fol. 222. Line 8. Mr. Glyn.
 Ibid. Line 34. Mr. Glyn.
 Fol. 223. Line 22. Mr. Glyn.
 Ibid. Line 42. Mr. Maynard.
 Fol. 226. Line 42. Mr. Glyn.

Fol. 228. Line 10. Mr. Glyn.
 Ibid. Line 26. Mr. Glyn.
 Fol. 229. Line 11. Mr. Glyn.
 Ibid. Line 33. Mr. Glyn.
 Fol. 233. Line 25. Mr. Glyn.

To the Ninth Article.

Fol. 236. Line 16. Mr. Glyn.
 Fol. 238. Line 22. Mr. Glyn.

Fol. 239. Line 14. Mr. Maynard.
 Fol. 240. Line 10. Mr. Glyn.

T H E
T R Y A L
O F
T. Earl of Strafford.

The First day.

Monday, March 22. 1640.

THe Lords being set in a place prepared in *Westminster-hall*, purposely for the Arraignment of *Thomas* Earl of *Strafford*, upon a charge of High Treason laid upon him by the Commons House of Parliament, in the Name of themselves, and of all the Commons of *England*. And the House of Commons being there likewise, seated as a Committee; and those who were to manage the Evidence on behalf of the House of Commons, being Members of that House, standing at the Barr, The Prisoner was called for; And being brought by Sir *William Balfour*, Lieutenant of the Tower, after Obeisances given, he came to the Barr and kneeled; and after standing up, The Right Honourable *Thomas* Earl of *Arundel* and *Surrey*, Lord High Steward of *England*, spake to him as follows.

The Prisoner
at the Barr.

Your Lordship is called here this day before the Lords in Parliament, to Answer to, and to be Tryed upon, the Impeachment presented to them by the Commons House of Parliament, in the Name of themselves, and all the Commons of *England*: And that their Lordships are resolved to hear both the Accusation and Defence, with all Equity. And therefore think fit in the first place, That your Lordship should hear the Impeachment of High Treason read.

Lord High
Steward.

The Impeachment was accordingly read by the Clerk of the Parliament.

A little after the entrance into it, a Chair was brought to the Prisoner by the Gentleman Usher, and the Prisoner sate down thereon by their Lordships direction.

After the Charge was read, the Earl of *Straffords* Answer was likewise read. And no more of proceedings that day.

A a

Only

Lord High
Steward.

Only the Lord Steward said further to the Prisoner, That his Lordship had heard the whole Impeachment of the House of Commons read ; And his own Answer : on which he hath put himself for Trial. That which is now to follow, their Lordships have commanded him to say, is the managing of the Evidence by those the House of Commons shall please to appoint, for the proving of this Charge.

But likewise they have Commanded him to say, That the time being so far spent, it may not be so proper now to proceed further in the business ; That this shall be fate upon only once a day, which will be fittest both for their Lordships, and for the House of Commons : And that they conceive it will agree with the sense of the House of Commons, not to fall into the particular management of the Evidence so late, but to defer it till the morrow, at the hour of nine of the Clock.

E. of *Strafford*.

My Lord of *Strafford* did then desire to know, whether he might with their Lordships good leave and favour, say any thing at that time or no.

Lord High
Steward.

The Lord High Steward answered, that their Lordships Commandment is, to let his Lordship know, That if the House of Commons proceed not by their Members to manage the Evidence this day, then what his Lordship hath to say to this House, may be put off to another time.

And so their Lordships Adjourned to the House above, (by which is meant the House where the Lords use to sit in Parliament) and appointed the next morning to proceed in this business.

The Second day.

Tuesday, March 23. 1640

Lord High
Steward.

THeir Lordships being set, the Lord Steward recited in brief the proceedings of the day before, adding, that naturally and properly, it belongs (in the next place) for those whom the House of Commons have deputed to manage their Evidence, in pursuance of the Articles of Impeachment, to begin the work of the day.

Then Mr. *Pym*, one of the Committee appointed for the management of the Evidence, began as followeth.

Mr. *Pym*.

My Lords,

We stand here by the Commandment of the Knights, Citizens and Burgeſſes, now aſſembled for the Commons in Parliament. And we are ready to make good that Impeachment whereby *Thomas* Earl of *Strafford* ſtands charged in their Name, and in the Name of all the Commons of *England*, with High Treason.

This, *My Lords*, is a Great Cauſe, and we might ſink under the weight of it, and be aſtoniſhed with the Luſtre of this Noble Aſſembly, if there were

were not in the Cause strength and vigour to support it self, and to encourage us ; It is the Cause of the King, it concerns His Majesty in the Honour of His Government, in the Safety of His Person, in the Stability of His Crown.

It is the Cause of the Kingdom, It concerns not only the Peace and Prosperity, but even the Being of the Kingdom. We have that piercing Eloquence, the Cries and Groans, and Tears, and Prayers of all the Subjects assisting us. We have the three Kingdoms, *England*, and *Scotland*, and *Ireland*, in Travail and Agitation with us, bowing themselves, like the *Hindes* spoken of in *Job*, to cast out their Sorrows.

Truth and Goodness (*My Lords*) they are the Beauty of the Soul, they are the Perfection of all created Natures, they are the Image and Character of God upon the Creatures.

This Beauty, Evil Spirits, and Evil Men, have lost ; but yet there are none so wicked, but they desire to march under the shew and shadow of it, though they hate the reality of it.

This unhappy Earl, now the Object of your Lordships Justice, hath taken as much care, hath used as much cunning to set a face and countenance of Honesty and Justice upon his Actions, as he hath been negligent to observe the rules of Honesty in the Performance of all these Actions. *My Lords*, it is the greatest baseness of wickedness, that it dares not look in his own Colours, nor be seen in its natural Countenance. But Virtue, as it is amiable in all respects, so the least is not this. That it puts a Nobleness, it puts a Bravery upon the Mind, and lifts it above Hopes and Fears, above Favour and Displeasure ; it makes it always uniform and constant to it self.

The Service Commanded me and my Colleagues here, is to take off those Vizards of Truth and Uprightness, which hath been sought to be put upon this Cause, and to shew you his Actions and his Intentions, in their own natural Blackness and Deformity.

My Lords, He hath put on a Vizard of Truth in these words, (wherein he says) That he should be in his Defence more careful to observe Truth, than to gain Advantage to himself. He says, he would endure any thing rather than be saved by Falshood.

It was a noble and brave Expression if it were really true.

My Lords, He hath likewise put on the Vizard of Goodness on his Actions, when he desires to recite his Services in a great many particulars, as if they were Beneficial to the Common-wealth and State, whereas we shall prove them Mischievous and Dangerous.

It is left upon me, *My Lords*, to take off these Vizards and Appearances of Truth and Goodness, in that part of his Answer which is the Preamble. And that I shall do with as much Faithfulness and Brevity as I can.

1. The First thing (*My Lords*) that I shall observe in the Preamble is this, That having recited all those great and honourable Offices which he hath done under His Majesty, he is bold to affirm, That he hath been careful and faithful in the Execution of them all.

My Lords, If he might be his own Witness, and his own Judge, I doubt not but he would be Acquitted.

It is said in the *Proverbs* of the Adulterous Woman, That she *wipes her mouth*, and says, *she had done no Evil*. Here is a wiping of the mouth, here is a verbal expression of Honesty. But (*My Lords*) the foulness and unjustness will never be wiped off, neither from his Heart, nor from his

Actions ; I mean for the time past, God may change him for the time to come : That is the first thing I observe.

2. *My Lords*, In the second place, out of his Apologetical Preamble, I shall observe this, He doth magnifie his own Endeavours in five particulars: 1. That he hath Endeavoured the maintenance of Religion. (I may miss in words, I shall not miss in sense.) 2. That he hath Endeavoured the Honour of the King. 3. The Encrease of His Revenue. 4. The Peace and Honour, and Safety of the Kingdom. 5. The Quiet and Peace of the People. These are his five particulars ; and I shall give a short Answer to every one of them.

1. For Religion, (*My Lords*) we say, and we shall prove, that he hath been diligent indeed to favour Innovations, to favour Superstitions, to favour the Incroachments and Usurpations of the Clergy : But for Religion it never received any advantage by him, nay, a great deal of hurt.

2. For the Honour of the King : (*My Lords*) We say it is the Honour of the King that He is the Father of His People, that He is the Fountain of Justice ; and it cannot stand with His Honour and Justice to have His Government Stain'd and Polluted with *Tyranny* and *Oppression*.

3. For the Increase of His Revenue : It is true, there may be some Addition of Sums ; but we say, There is no Addition of Strength nor Wealth, because in those parts where it hath been increased, this Earl hath taken the greatest share himself : And when he hath spoiled and ravined on the People, he hath been content to yield up some part to the King, that he might with more security enjoy the rest.

4. For the Strength and Honour, and Safety of the Kingdom : (*My Lords*) In a time of Peace he hath let in upon us the Calamities of War, Weakness, Shame and Confusion.

5. And for the Quiet of the Subjects, He hath been an Incendiary, he hath Armed us amongst our selves, and made us weak and naked to all the World besides. This is that I shall answer to the second Head of his Apology.

3. The Third is this, (*My Lords*) That by his means many good and wholesome Laws have been made since his Government in *Ireland*.

Truly, (*My Lords*) if we should consider the particulars of these Laws, some of them will not be found without great Exception. But I shall make another Answer, good Laws, nay, the best Laws are no advantage when *Will* is set above Law, when the Laws have force to bind and restrain the Subject, but no force to Relieve and Comfort him.

4. He says in the Fourth place, He was a means of calling a Parliament not long after he came to his Government. *My Lords*, Parliaments without Parliamentary Liberties, are but a fair and plausible way into Bondage ; That Parliament had not the Liberties of a Parliament ; Sir *Pierce Crosby* for speaking against a Bill in the Commons House, was sequestred from the Council-Table, and Committed to Prison.

Sir *John Clotworthy*, for the same Cause, was threatned that he should lose a Lease that he had. Mr. *Barnewell*, and two other Gentlemen, were threatned they should have Troops of Horse put upon them for speaking in the House. Proxies by dozens, were given by some of his Favourites : And (*My Lords*) Parliaments coming in with these Circumstances, they be Grievances, Mischiefs, and Miseries ; no works of Thanks or Honour.

5. The Fifth is, That he hath been a means to put off Monopolies, and other Projects that would have been Grievous and Burdensome to the Subject; if he had hated the Injustice of a Monopoly, or the Mischief of a Monopoly, he would have hated it in himself; he himself would have been no Monopolist. Certainly, *My Lords*, It was not the love of Justice, nor the Common good, that moved him: And if he were moved by any thing else, he had his Reward. It may be it was because he would have no man gripe them in the Kingdom but himself; his own *Harvest-crop* would have been less, if he had had sharers. It may be it was because Monopolies hinder Trade, he had the Customs, and the benefit of the Customs would have been less; when we know the particulars, we shall make a fit and proper Answer to them: But in the mean time, we are sure whatsoever was the reason, it was not Justice, nor love of Truth, that was the reason.

6. He saith in the sixth place, He had no other Commission but what his Predecessors had: And that he hath Executed that Commission with all Moderation. For the Commission, it was no Virtue of his if it were a good Commission, I shall say nothing of that. But for the second part, his Moderation; when you find so many Imprisoned of the Nobility; so many men, some adjudged to Death, some Executed without Law; when you find so many publick Rapines on the State, Soldiers sent to make good his Decrees; so many whippings in defence of Monopolies; so many Gentlemen that were Jurors, because they would not apply themselves to give Verdicts on his side, to be fined in the *Star-Chamber*.

Men of Quality to be disgraced, set on the Pillory, and wearing Papers, and such things, (as it will appear through our Evidence) can you think there was any Moderation. And yet truly, (*My Lords*) I can believe, That if you compare his Courses with other parts of the World ungoverned, he will be found beyond all in Tyranny and Harshness; but if you compare them with his mind and disposition, perhaps there was Moderation; Habits we say, are more perfect than Acts, because they be nearest the principle of Actions. The Habit of Cruelty in himself (no doubt) is more perfect than any Act of Cruelty he hath Committed; but if this be his Moderation, I think all men will pray to be delivered from it: And I may truly say that is verified in him, *The Mercies of the Wicked are Cruel*.

7. I come to the seventh, and that is concerning the Kings Revenue: That he hath improved it from 57000 l. to 120000 l. and that he hath done it by Honourable and Just ways. That he hath made the Kingdom able to Support it self. That he hath improved the Kings Revenue by many rich and great Purchases. That he hath saved the Charge of the Navy, by bearing 7000 l. a year in *Ireland*, which was born here before. And then he says for a Conclusion, That he never took Money out of the Kings Exchequer. *My Lords*, I must run over all these.

For the Enlargement or Increase of the Revenue of that Kingdom, I think there is a little fault in his Arithmetick, but I will not charge him with that now.

But for his Honourable ways of Increasing it; if Monopolies, if Vexation of the Subject, be Honourable ways, we shall leave that to your Lordships to judge. But most of his increases are made upon Monopolies. It is true, there is another way of bargaining, but it hath been mixed with

with Rigour and Rapine, and Injustice. Men have been driven out of their Estates; Offices have been found by force. Men have been driven to resign their Estates: And is this a Just way of improving a Kings Revenue? that I shall submit to your Lordships.

Then he says, He hath made the Kingdom able to Support it self: *My Lords*, He that hath no Harvest of his own, must Glean after another mans Reapers. Truly, this was none of his work: The Kingdom was able to subsist of it self before he came thither. For that we shall Appeal to the Records of the Exchequer, betwixt the year 1622. and the time of his Government, which was nine years at least, during which, nothing went out of this Kingdom to the support of that Island. The 7000 l. for the Navy, was born in *Ireland* before his time a year or two; so he comes near the truth of that, yet misses a year of the truth.

But if it were true; hath it been only by the ordinary Revenue that it hath supported it self? He hath had six Subsidies; a year, or two of Contribution, which the *Irish* gave towards the supporting of the Charge of *Ireland*. It was not his Husbanding, nor his managing of the Revenue; And truly if the Kingdom were able to support it self, (as it was before he came thither) by the Revenue of the Kingdom, and by the help of that Contribution, it would be very fit, (since there may be many Increases since) to know what is become of 300000 l. for six Subsidies, and of the Contribution money; and indeed there is a great suspicion, that that went another way. But that you may the better observe his Husbandry, I shall speak of his last years Accompt; the 20th of *March*, (now something more than a year since) the Under-Treasurer delivered an Account, on which there was 101000 l. remaining in the Kings Coffers. Since that time there hath been received 112000 l. for the King. (I speak of round Sums, (*My Lords*) I leave out pounds and pence, and such things: This is 213000 l. He hath received out of the Exchequer in *England* 50000 l. There are Debts in *Ireland*, 60000 l. and what other Debts we know not: Here is above 320000 l. consumed in a year; which is almost as much as Queen *Elizabeth* consumed in any year when *Tyrone* was in Rebellion, and an Army of *Spaniards* was there.

My Lords, He saith he never took Money out of the Exchequer; if he rests in that Affirmation, it will be very near truth, yet serves but to shadow a falshood, which is worse, to cover and to glaze, under such a Colour of Truth as that is, a notable Falshood.

My Lords, It is true, he hath taken no Money out of the Exchequer; but he could be content to take from the Under-Treasurer of the Exchequer, 24000 l. about two years since, and to keep it for his own occasions; when the Kings Army was in want: And he paid it in but lately.

And before I pass from this matter of the Revenue, give me leave to speak something of the increase that comes in by the Customs.

It is true, there is a great increase; but if your Lordships look to the beginning of that bargain, you shall find the notablest cozenage that ever was offered to a Prince, in one that was a sworn Servant, and intrusted with so great a Charge.

It will be more fully opened in the Article that concerns the Customs; but I shall speak of it a little: He made a bargain, and under pretence of getting of 1350 l. gain to the King, he gave cause of Allowances and Defalcations; whereby he took forth of the Kings Purse 6000 l. a year, or very near, which the King had before. He laid new Additions of charge on the Customs, which came to 12000 l. So that on a bargain of giving

giving 1350 l. more than was reserved on the former Lease, He was sure, that when he made the bargain, of gaining 18 or 20000 l.

8. But I shall pass from the Revenue of the Crown, to the Revenue of the Church, (which is in the 8th place) He saith he hath been a great Husband for the Church, and truly hath brought in many Lands to the Church; but he hath brought them in by ways without Law, without Rules of Justice: He hath taken away mens Inheritances. And here (*My Lords*) is an offering of Rapine, an offering of Injustice and Violence: And will God accept such an Offering. Must the Revenues of the Church be raised that way. It is true, it was the more in the way of his own Preferment. He knew who sat at the Helme here, the Archbishop of *Canterbury*; and such services might win more credit with him. It was not an Eye to God and Religion; but an Eye to his own Preferment. I shall speak no more of that.

9. I come to the 9th head; and that is the building of Churches. Many Churches have been built since his Government. Truly, *My Lords*, why he should have any Credit or Honour, if other men builded Churches, I know not: I am sure we hear of no Churches he hath built himself: If he would have been careful to have set up good Preachers, that would have stirred up Devotion in men, and made them desirous of the knowledge of God, and by that means made more Churches, it had been something; But I hear nothing of Spiritual Edification, nothing of the knowledge of God that by his means hath been dispersed in that Kingdom. And certainly they that strive not to build up mens Souls in a Spiritual way of Edification; let them build all the material Churches that can be, they will do no good; God is not worshipped with Walls, but he is worshipped with Hearts.

10. He saith in the 10th place, That many Orthodox and Learned Preachers have been advanced by his means; and the Doctrine and Discipline of the Church of *England*, by his means Protected and Defended. *My Lords*, I shall give but two or three Paterns of the Clergy that he hath preferred. If you will take Doctor *Atherton*, he is not to be found now above Ground; for he was hanged for many foul and unspeakable Offences.

Doctor *Brambill* hath been preferred to a great Bishoprick; but he is a man that now stands charged with High Treason: he hath been but few years in *Ireland*, and yet hath laid out at least 30000 l. in Purchases. I shall name but one Chaplain more, and that is one *Arthur Gwyn*, who about 1634. was an Under-Groom to the Earl of *Corke* in his Stable: In the year after, Dr. *Brambill* preferred him to be a Clergy-man; and a Parsonage, and two Vicaridges Improprate, were taken from my Lord of *Corke*, and given to this *Arthur Gwyn*. I shall add no more Patterns of his Clergy.

11. I go to the 11th, and that is concerning the Army: He hath many glorious Expressions of his Service concerning the Army; That they are 1000 Horse and 2000 Foot: And that there hath been very few Papists Soldiers or Officers; and none preferred by himself. Truly, I think he says true, or within one of true in this; for there was but one preferred by himself, and therefore I shall not stand upon that.

But

But he says this Army was paid out of the Revenue of the Crown, which heretofore it was not wont to be. To that I have spoken before, and shewed, that many years before his time all the Charges of Ireland were born within Ireland.

He says, (and I speak that as to the Army too) That neither the Arms nor Wages have been burdensome to the people of Ireland; but their Lodgings and Billettings have not been easie, and not without discontent. Why (*My Lords*) in Dublin it self, where they have a Charter that exempts them from Billetting of Soldiers, they have been faine to pay for Billetting of Soldiers. Nay, those Soldiers that were Servants and Dwellers in his own houses, and other places, must have their Billetting moneys. And of this there hath been Petitions and Complaints; nay, it hath been spoken of in Parliament there; and yet he can tell you, that the marching and laying of Soldiers is without burthen and grievance to the People: that was the Eleventh.

12. I go to the 12th, and that is the great increase of Trade: The increase of Shipping 100 to one. Truly (*My Lords*) in a time of Peace, and in a growing Kingdom as that was, being formerly unhusbanded, It is no wonder, that when Land increases in the Manurance, and People increase in Number, both Shipping and Trade increases. But it is the advantage of the time, not the advantage of his Government; for (*My Lords*) his Government hath been destructive to Trade: And that will manifestly appear by the multitude of Monopolies that he hath exercised in his own person. And that is all I shall speak to the 12th.

13. The 13th is, That Justice hath been administred without bribery, without partiality, without Corruption; these are Glorious things. But there will as much fall upon him of Corruption and Injustice, as of any other Offence; And that (*My Lords*) will appear to you through the whole course of our Evidence: I shall not now speak of the particulars. And that we may not content our selves with particular witnesses only, I shall humbly desire, That the *Remonstrance* of the Parliament of Ireland, both of the Lords and of the Commons, may be read: And they will give a sufficient Testimony of the quality of his Justice.

14. The 14th (*My Lords*) is this, That he hath been a Means to His Majesty for a Parliament in England. It is true he was: And it is as true, that we count that as mischievous a part of his design, as any thing else. Into what a miserable *Dilemma* (*My Lords*) did he bring the Kingdom, that we must surrender the Liberties of the Kingdom in Parliament, or see them oppressed with Force and Violence out of Parliament. The particulars of this I shall leave for the instant; for there is an Article that concerns this.

I have now passed through all the material parts of the Apologetical Preamble.

He concludes with a desire, That he may not be charged with Errors of his understanding or Judgment, being not bred up in the Law, or with weakness, to which humane Nature is subject. Truly, it would be far from us to charge him with any such mistakes; No (*My Lords*) we shall charge him with nothing but what the Law in every mans breast condemns, the Light of nature, the Light of common reason, the Rules of

of common Society: And that will appear in all the Articles which my Colleagues will offer to you.

My Lords, I have some few Witnesses which I shall desire may be heard to the points I have opened; and I shall in the first place desire, that Sir *Pierce Crosby* may be heard concerning the breach of Priviledge in Parliament: Also Sir *John Clotworthy*, *Nich. Barnewell*, *Nich. Plunket*, and Sir *James Montgomery*. I have some Witnesses to the point of Revenue, Sir *Robert Pye*, Sir *Edward Warder*, and Sir *Adam Loftus*.

Gentlemen, You who are of the Committee, I am commanded to let you know, That the Lords will allow you all the Testimonies you can produce to make good the Impeachment; but the Witnesses which you do produce, must be deposed before their Lordships.

Lord High Steward.

Mr. *Pym* replied, *My Lords*, the Commons agree to it; and in the first place we shall call Sir *Pierce Crosby*, who was sworn accordingly.

Mr. Pym.

My Lords, I humbly crave leave whether I may not make my exception to any Witness.

E. of Strafford.

Yes, you may.

Lord High Steward.

We desire to be heard upon that point of Exception, That if my Lord of *Strafford* will make any Exception why a Witness should not be heard at all, it may be according to the Rules of Justice.

Mr. Pym.

The Lord High Steward declaring, the Prisoner might except against the person of the Witness, if he have just Cause, my Lord of *Strafford* proceeded in substance as followeth:

Lord High Steward.

My Lords, I humbly conceive, that I have against this Gentleman Sir *Pierce Crosby*, just occasion of Exception, (as not being a competent Witness) for that the said Sir *Pierce* hath been sentenced in the *Star-Chamber*, for a very undue practise against me, tending to no less than the taking away of my Life, charging me, (and practising to prove it by Testimony of witness) that I had killed a man in *Ireland*, whom I protest, I did never so much as touch.

E. of Strafford.

That ever since (the said Sir *Pierce* having broke Prison, and made an Escape out of the Fleet) he hath remained abroad, and never came hither till such time as the Parliament sate here; and now is returned to make Complaint in this business against me, or indeed against the Court of *Star-Chamber* rather: And standing thus, whether the said Sir *Pierce* shall be allowed a Witness against me, I humbly refer it to Your Lordships Judgments.

My Lords, We expected my Lord of *Strafford* would have shown on what reason Sir *Pierce* was censured; for a man Criminous in one kind, may be nevertheless fit to give Testimony in another kind. If it be a particular practise against my Lord of *Strafford*, when their Lordships have heard what that practise was, and have heard likewise the Witness, they will believe him according to the weight of the Testimony, compared with the fault, or whatsoever else is in the Sentence. But in the mean time, they conceive it is no Exception, but that the Witness should be

Mr. Maynard.

heard, This that is charged on my Lord of *Strafford*, being a Crime of High Treason, it concerns the Common-wealth, the King being party, and not the Witness that is produced.

And whereas it is informed that Sir *Pierce Crosby* brake Prison : The Gentleman tells us it is not so ; he paid the Kings Fine, and so was discharged. But though he had, it will not take away his Testimony when he is present ; which he said, he spake only to give satisfaction to that aspersion.

Lord High
Steward.

I must desire their Lordships directions, whether Sir *Pierce Crosby* be allowed, notwithstanding my Lord of *Straffords* exceptions against him, and Mr. *Maynards* allegations why his Testimony should be given in this case, or no : And divers of their Lordships called to have the House Adjourned to the House above, that they might there debate and determine it.

Mr. Pym.

Mr. *Pym* did thereupon offer, that they will at present lay him aside till their Lordships have had opportunity to consider, and bring him again to morrow ; whereunto Mr. *Maynard* added this further : We desire rightly to express our selves to Your Lordships, We will lay him aside till Your Lordships have heard others, not that they wave him wholly : And we pray it may be so entred, The Lord Steward declaring it so to be.

Mr. Maynard.

Lord High
Steward.

It is so understood.

Mr. Pym.

In the next place, we desire that Sir *John Clotworthy* may be called, whom we produce to this point, That during the Parliament in *Ireland*, for speaking against a Bill in the Commons House, he was threatned by Sir *George Ratcliffe*, (whom we take to be bound up in one Cause with my Lord of *Strafford*, and to be moved by my Lord of *Straffords* spirit) and that Parliaments are not Priviledges, when Parliament Liberties are not observed.

Sir Jo. Clotwor-
thy, a Witness.

Sir *John Clotworthy* was sworn :

The Question.

My Lords, We desire he may be asked, whether for having delivered his Opinion against a Bill preferred to the Parliament in *Ireland* by the Earl of *Strafford*, about the 10th year of this King, he was not asked by Sir *George Ratcliffe*, concerning a Lease that he had ; the question intimating a Threat, that he should suffer for speaking so freely ?

Sir Jo. Clotwor-
thy.

To which he answered, *My Lords*, In the 10th year of the King, I serving in *Ireland* in Parliament, did Vote against a Bill ; as soon as I had Voted against it, Sir *George Ratcliffe*, being one of the Tellers, on his counting the numbers, how many Yea's, and how many No's, He came to me, and said thus, Have not you a Lease in such a place ? I told him yea ; remember that, saith he : This is all I can remember. And this (he added) was in the Commons House.

2. He being interrogated whether he knew any thing of Sir *Pierce Crosbies* Commitment, or no ?

He answered, I know it only by hear-say, he was a Member of the House when I had the Honour to serve ; I heard the expression of Sir *George Ratcliffe* at that time : And the common voice was, that he was under restraint ; but I saw him not.

3. Being

Being asked whether there was any other occasion of these words but his said Vote :

He answered, Truly (*My Lords*) I can apprehend none.

4. Being asked whether he heard Sir *George Ratcliffe* threaten Sir *Pierce Crosby* in Parliament :

He answered, I heard Sir *Pierce Crosby* speaking against a Bill in Parliament ; and as soon as he had sat down from speaking against the Bill, Sir *George Ratcliffe* said to him, That is not Privy-Councillor like, or to that purpose, I heard him.

To the point of Sir *Pierce Crosbies* being sequestred from the Council upon his speaking in Parliament.

The Lord *Ranulagh* being sworn, was interrogated whether about the 10th year of the King, he knew Exception to be taken against Sir *Pierce Crosby*, for delivering his Opinion in Parliament ; and what proceedings were against him thereupon :

Lord *Ranulagh*
a Witness.

He answered, (*My Lords*) to the best of my remembrance, Sir *Pierce Crosby* being a Privy-Councillor in *Ireland*, was charged at the Council-Board for Voting against a Bill that was transmitted by the Lord Deputy and Council ; and hereupon the Opinion of the Board was asked ; and by the advice of that Board Sir *Pierce Crosby* was sequestred from the Council. This is as much as I can remember.

2. Being asked by whom he was sequestred :

He answered, By the Deputy and the Council.

3. Being asked who began the Question :

He answered, My Lord Deputy charged him.

My Lords, I humbly desire that my Lord *Ranulagh* may be asked, whether when things are handled at the Council-Table, the Deputy be not the man that propounds them to the Council or no ; not as a party complaining, but as belonging to the duty of his place : And how he behaved himself in that business.

E. of *Strafford*.

To which the Lord *Ranulagh* being interrogated,

Answered, It is the constant course for the Deputy to propose the things that be brought to the Board ; and seldom doth any of the Council propound any thing ; but the Proposition comes from the Deputy.

Lo. *Ranulagh*.

But being further asked on the Committees motion, whether this of Sir *Pierce Crosbies* came to the Board by motion of my Lord alone, or that any other moved him in it, or conveyed it to him :

He answered, I cannot charge my memory where it had beginning ; but as I remember, My Lord Deputy *Wandesford* that died last, and Mr. *Wandesford*, and Sir *George Ratcliffe*, were movers of it ; but whether it moved originally from them, or from my Lord himself, I know not, I rather believe it proceeded from my Lord Deputy, as being proper for him.

The Lord *Mountnorris* sworn and interrogated, whether he was present at Council-Table when Sir *Pierce Crosby* was sequestred from Council-Table ; and for what Reasons he was sequestred :

L. *Mountnorris*
a Witness.

He answers, I was then present at Board, and he was removed on Complaint made by Sir *George Ratcliffe* at the Board, touching his Voting of a

Bill in Parliament : And when he said it was not spoken like a Councillor, he said, he would answer it to him that made him a Councillor. That was the effect, as I can remember, of his Accusation ; and there were several others that testified the same words that Sir George Ratcliffe accused him of, and that was the reason he was sequestred by most Voices at Council-Table, though he had many Votes with him.

And being further asked, what my Lord of *Strafford's* Vote was :
He answered, It was for his Sequestration.

Nicholas Barnewell a Witness.

Mr. *Nicholas Barnewell* sworn ; Being asked, whether for his delivering his Opinion in Parliament, Sir George Ratcliffe did ask whether the said Mr. *Barnewell's* house was capacious to receive 500 men, to be laid upon him ; intimating thereby, that he must look for Soldiers to be laid upon him for that reason :

He answered, There was a Debate in the House concerning certain Boroughs sequestred from the House by reason of a Judgment in the Exchequer, which the House conceived an Erronious Judgment, and were of Opinion that the old Boroughs should be called in ; I was of that Opinion, Sir George Ratcliffe was of another Opinion ; and would have another question debated : And coming out of the House, he asked me, Will not your House hold Five hundred men ? I answered, you know what my house will hold as well as my self ; and I smiling at it, he answered, But it is no laughing matter, you shall have 500 men laid on you.

E. of *Strafford*.

I desire it may be asked, when this was spoken :

He answered, It was in *November* last ; and that my Lord of *Strafford* was not then in the Kingdom.

Mr. *Pym*.

Mr. *Pym* observed, That the Spirit of my Lord of *Strafford* could move in Sir George Ratcliffe, wheresoever it was spoken ; And Mr. *Barnewell* added, it was done in *November* then last.

In the next place, We shall shew the untruth of that part of my Lord of *Strafford's* Preamble, that says, The Soldiers in *Ireland* are disposed with so much contentment to the People, that they are no burden to them.

Mr. *Egor* a Witness.

Mr. *Egor* was called for a Witness, and Sworn.

Being interrogated whether he knew of any Soldiers Billeted in *Dublin* ? whether they were not a Grievance ? whether that City hath not a special Charter of Exemption ?

He answered, May it please Your Lordships, the City of *Dublin* doth bear the Charge of 40 Horse, and pays to them 45 *l.* a month for Billeting ; which is conceived they should not bear, in regard they have a Charter that says, *Nullus Mareſchallus Capiat hoſpitiu intra Civitatem* ; and therefore they conceive it a heavy burden, and it is as much as a Subsidy : And another part of the City standing in another County, pays 10 *l.* a month ; so they pay in all 55 *l.* a month.

E. of *Strafford*.

I humbly desire he may be asked, whether before my Lord of *Strafford's* time, and as long as he can remember, The Lord-Deputies Foot-guard, and Horse-Companies, were not Billeted in *Dublin* ?

He answered, To the Foot-guard, when my Lord of *Faulkland* was there, they gave Lodging continually ; but it was never drawn to matter of

of money : And till now we had never Horfe upon us, except it were for a month, or so.

In the next place, We humbly desire the Remonstrance of the Nobility, and the House of Commons in *Ireland*, might be read as Testimonies of my Lord of *Straffords* Justice.

Mr. Glyn.

I desire to know whether questions are to be asked of matters not contained in the Charge, as the Remonstrance is not.

E. of *Strafford*.

My Lords, The Subverting of the Laws, and Corruption in Government and Justice, is generally laid in the Charge ; and he hath answered, that he hath administred Justice with Integrity : And this we produce to shew, That the frontespiece of his Answer, is in that part untrue.

Mr. Glyn.

To prove the Truth of the Copy of the Lords Remonstrance now produced, the Lord *Digby* of *Ireland* was Sworn ; and he on his Oath said, That the Copy was delivered him at his coming over, by the Clerk of the Lords House in *Ireland*, to be brought over hither by Order of the Lords there.

And the Lord *Baltinglasse* Deposed, That he knew it to be the Clerks hand ; and they were both present at the Voting of it.

The same was read, bearing date *February 22. 1640.* The Protestation and Declaration of the Lords Spiritual and Temporal in Parliament Assembled ; We desire to apply it to disprove part of the Preamble of my Lord of *Straffords* Answer.

Remonstrance.

I desire my Lord *Digby* may be asked whether he gave his Vote to this Protestation ;

E. of *Strafford*.

We produce it not as the Act of any particular man, but of the Lords.

Manager.

Your Lordships may observe, that this is fallen out since my Impeachment of High Treason here : And that it is followed by Faction and Correspondence, as in time might be made appear, if I could undertake it ; and a strong Conspiracy against me.

E. of *Strafford*.

My Lords, These words are not to be suffered ; Charging the House of Commons with Faction, Correspondency, and Conspiracy, We desire Your Lordships Justice in this.

Mr. Glyn.

God forbid I should think there was, or could be any thing in that House, or any Member of it, but that which agrees with Truth and Justice, and Equity. I must profess to Your Lordships, I had no Reflection or Intention, either upon the Lords House there, or upon the Honourable House of Commons here ; but upon certain Persons that are not Members of the House here, that have Correspondency with them in *Ireland*, that are not Members of the House there.

E. of *Strafford*.

We must consult with the House of Commons concerning the prosecution of this Exception to his words ; and in the mean time we will reserve it to our selves ; and so we shall proceed.

Mr. Glyn.

We

We desire the Remonstrance made by the House of Commons in *Ireland*, (being deposed unto by *Patrick Gough*, That about *February 25.* it was delivered him, sealed up in a box, with other things, before his face; being called on by the House to be brought to the Committee for *Irish* affairs in *England*) may be read.

Remonstrance.

Which Remonstrance was read accordingly.

Manager.

Your Lordships may observe, That my Lord of *Straffords* glorious Declaration of his own Merits, was confuted by the whole Parliament; and that the whole sum of the Charge, is confirmed by the Testimony of all *Ireland*.

To the point of *Revenue* of *Ireland*; for the contradicting of my Lord of *Straffords* Affirmation, That *Ireland* supporteth its own Charge;

Witness.

Sir *Edward Warder* produced, and Sworn, was interrogated when the last money was sent out of this Kingdom for support of His Majesties Affairs of *Ireland*:

He answered, The last money sent over for payment of the Army there, was in the Term of *Easter, 1621.* and it was 10000 *l.* in full of 20000 *l.* for one whole years charge, beginning the first of *April, 1619.* and ending the last of *March* following; which was 17 *Jac.*

Being interrogated, whether since that time the State here hath been actually charged with the Affairs of *Ireland*.

He answered, Nothing hath been issued out of the Receipt of His Majesties Exchequer for the Maintenance of *Ireland* since this time, only such moneys as have been lately issued for the Army, and what hath been issued to the Treasurer of the Navy, and the Officers of it, for the maintaining of Ships on the Coast; but otherwise, no money hath been issued as a constant settled thing out of the Receipt of His Majesties Exchequer, for any thing arising since the last of *March, 1620.*

E. of *Strafford*.

I desire he may be asked what was since issued for the Navy.

Manager.

We admit that the Charge of the Navy continued divers years after, yet a few years before my Lord of *Straffords* Government it was taken off too.

Lord High Steward.

The Manager did so open it, and Sir *Edward Warder* did in effect set it forth so: Therefore that question was waved.

Witness.

Sir *Robert Pye* produced, and Sworn to that point of Revenue; and being interrogated to the same purpose,

Answered, No money hath issued out of the Receipt, but as Sir *Edward Warder* delivered it; and I know of no other money, but only for the Maritime parts, something hath been paid to the Treasurer of the Navy: And besides the 50000 *l.* of late, I know not any.

The Lord *Mountnorris* was called upon; and being asked whether the Charge of 7000 *l.* a year for the Navy of *Ireland*, was not taken off a year before my Lord of *Straffords* Government:

Witness.

He answered, I cannot say the sum was 7000 *l.* But two of the Whelps employed

employed there before my Lord of *Strafford* came to the Government, were defrayed; whether wholly, or in part, I cannot tell, but they had good large sums of money, and were paid in the Kingdom.

I desire my Lord *Mountnorris* may be asked, whether when I came to the Government, the constant Charge did not exceed the constant Revenue; and how much?

E. of *Strafford*.

It is true, the *Irish* gave sixscore Thousand pounds towards the Charge; so that the Supply came out of *Ireland*, though not out of the constant Revenue of *Ireland*: but it came not out of this Kingdom.

Manager.

He further answered, the Constant Revenue did not do it, There was a Contribution by Loan from the Country, to supply it; but before my Lord of *Faulkland* went over, I heard my Lord of *Middlesex* tell him, They must look for no more money, *England* had nourished *Ireland* long enough, she must now live upon her own Milk.

Witness.

The reason why money did not go out, was because 120000 l. was supplied by a Contribution; notwithstanding which, when he came to serve the King in that Kingdom, the Crown was indebted very near 100000 l. Sterling.

E. of *Strafford*.

He hath received 300000 l. for Subsidies.

Manager.

It will Appear on Accompts, to be bestowed faithfully and justly every penny, for the King.

E. of *Strafford*.

To the point of my Lord of *Strafford*s taking of 24000 l. of the Kings money, and disposing it for a year and a half, notwithstanding His Majesties Wants, and the Necessities of the Army.

Sir *Adam Loftus* Vice-Treasurer, produced and Sworn, was interrogated, whether my Lord of *Strafford* had not 24000 l. out of the Kings Revenue? and how long time? and when was it paid in?

He answered, My Lord of *Strafford* and Sir *George Ratcliffe*, had never a penny out of the Exchequer, but on such Warrants as I durst not deny them, for their due Entertainment, and other things importing His Majesties Service. But I must confess, that they being Partners in the Customs, some moneys were to be paid for the profits of the Customs which were in arrear; and Sir *George Ratcliffe* moved me to give discharges for it, and he would give me my Lord Lieutenants Bond, and his own, for paying of it upon demand; which I accepted of, and accordingly did give those discharges.

Witness.

Whence observe, discharges are money; for so much money should have been paid in, and if it be intercepted, the King wants His money.

Manager.

Being asked what was the sum; and how long was it kept:

He answered, The sum, as I take it, was 19000 l. on one Bond, and 5000 l. on another; and as I take it, it was in the year, 1638.

Witness.

Being asked again, how long it was kept:

He answered, It was paid lately; within these three months.

Whence observe, it was since the questioning of him in Parliament. The Parliament proves a good Officer for the King there.

Manager.

I shall

E. of Strafford.

I shall reserve my self to give full satisfaction to this in its proper time, it being part of my Charge ; But at present I desire Sir *Adam Loftus* may be ask'd the question, Whether when I came into that Kingdom, the constant Revenue fell not short of the constant Charge, at least 20000 *l.* a year.

Manager.

We except against Interlocutory discourses ; and having now concluded this part of the Charge, we desire, that if my Lord of *Strafford* would say any thing in answer to what hath been now said, he might say it presently, else we should be on great disadvantages.

E. of Strafford.

My Lords, I conceive the Proposition to be fair ; and it is that which I desire, my memory being weak, and not versed in these kinds of Proceedings : I intended to have made it my humble suit for longer time to Answer to this days Proceedings, but shall readily Answer every particular Article in order as they go along ; and shall obey and observe the Order proposed. But as to these things which I did not expect, as the Remonstrances, and other Matters opened, being not in this particular Charge, I humbly crave Your Lordships leave and liberty, to recollect my self, and then I will give them the best Answer I can. For to Answer them suddenly I confess I am not so well fitted, as I trust I shall be.

And I desire leave to say in the presence of Almighty God, That I shall desire to be delivered from the Afflictions that God Almighty hath laid on me for my sins, no other way than as in the Intention of my heart, and Endeavour of my mind, I have been most faithful and true to His Majesty and the Common-wealth ; and I well trust and hope, that by the time all these things come to conclusion, and have been fully heard, I shall recover in great measure, the favour and good Opinion of the Honourable House of Commons ; in which House, I have spent a great part of my time : And I doubt not but it is known to divers that sit here, what my Carriage and Behaviour hath been there. And I desire no more, (and I am sure it will be granted, they are so just and good) but that they will reserve towards me, an Opinion of Charity, that I give such an Account, as may preserve me to be the same in their Opinion, that I was formerly. I was never yet Impeached in my private Conversation, of untruth, and hope they will think of me charitably, till they have heard the whole business ; and I doubt not but I shall take off, in great part, their hard Opinion, and procure to my self, their Compassion and Favour ; and that I shall go in peace and quietness to my Grave, leaving all publick Employments whatsoever. And I humbly beseech the House of Commons, to incline a gracious Opinion to me, so far forth, that I am the same man in Opinion, that I was when I was one of them ; and I doubt not but this, out of their Nobleness and Goodness, they will afford me.

But for these particulars, I humbly crave, that with Your Lordships good leave, I may have a little time with my self to consider them, because they be new ; and for the rest, I shall obey Your Lordships Order, and give them thanks.

Manager.

No Exception is taken, but to what is affirmed in his own Answer ; and the Commons will think it another mans Answer, and not his own, if he be not ready to make good the Truth of it. These things should not be new ; for every man should be ready to maintain his own Assertions.

I am

I am (*My Lords*) in an unknown way, being not versed in these things ; if I might have had the Assistance of Council, it would have been a great ease to me : but it is not possible for me to recollect all which the Worthy Gentleman hath said so materially, and with so much weight. Matters of Fact I could answer to, Article by Article ; but to answer presently so great and tedious a discourse, so well delivered, and so weighty, I profess I am not able ; my Memory being not able to carry it. But if Your Lordships would please, out of Your Nobleness and Goodness, to give me Respite to recollect my self to these things that be Generalities, I should be able to give a good Accompt thereof, protesting seriously, That I think every part of the Preamble to be very Just and True ; and I hope, under favour, to make it appear so, when I shall shew those things which have not yet been so fully informed and known, as I trust they may be hereafter.

E. of Strafford.

My Lords, We humbly desire, that since my Lord of *Strafford* is not ready to give Satisfaction to what hath been disproved in his Answer, we may proceed to that which he is ready to give Answer and Satisfaction to ; and that my Lord of *Strafford* might understand, That if he Answers not now what hath been said concerning the Preamble, he must have no time to Answer it hereafter.

Manager.

I Appeal to Your Lordships ; and I renew my Request, That I may for these, have time to recollect my Thoughts till next day : If it may not be granted, I beseech Your Lordships to bear with many of my Infirmities, being very great, both in Body and Mind ; and to consider, That my sad Condition doth some way plead for a little Compassion and Favour, I being in a way I was never in before, and having not the great Parts that others have. Yet rather than I should be thought to Abuse Your Lordships with Untruths, I will do the best I can to maintain my Answer presently ; being confident, through the Blessing of Almighty God, that though the particulars thereof are delivered with a great deal of Weakness and Disadvantage, yet Your Lordships shall find them Truths, my own Heart (I protest before God) telling me so ; and hope that God will give me Help and Assistance to make it appear so : And other than that I desire not to be ; for if I were the man I am represented, I were not worthy to live : I confess, the Honourable House of Commons have proceeded against me with all Reason and Justice that can be ; being informed as they were, they could do no less ; if they had done less, they had not performed their Trust with that fulness they should ; and therefore I find no fault with them. But I beg leave to express a Truth as well as God shall enable me ; hoping it will appear, that all I have said is true, as all is true to my knowledge. And I know it is in the Heart of every man that hears me, That I should have time to clear a Truth ; no man can deny it : And therefore I humbly pray, I may not be suddenly taken, protesting seriously, I have said nothing but what I knew, or verily believed to be true.

E. of Strafford.

We pray Your Lordships Resolution in this point, before we proceed any further.

Manager.

Their Lordships thereupon Adjourned to the Upper-House ; and about half an hour after, returned.

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I am

Lord High
Steward.

I am commanded to impart their Lordships Resolution, That since the Commons do not press these things as matters of Crime, but rather upon the matter of Truth, they conceive my Lord of *Strafford* need not further time for these particulars. And that if his Lordship will make any Answer to these particulars, he is to do it now.

E. of *Strafford's*
Speech.

I shall never do other than readily obey whatsoever Your Lordships should please to command me, my heart paying you Obedience; and so in truth shall every thing that proceeds from me. The question (I observe) is matter of Truth, or not Truth, in the Preamble (as they call it) of this my Answer; and to that, with all the Humility and Modesty in the World, I will apply my self, as not conceiving it any way becoming me to speak any thing of Sharpness in any kind, but with all Humility and Reverence to bear all these Afflictions, with acknowledgment unto Almighty God, and to lay them so to my heart, that they may provide for me in another World, where we are to expect the Consummation of all Blessedness and Happiness. And therefore to lay aside all these Aggravations by words, wherewith I have been set forth to Your Lordships (only with this) that I trust I shall make my self appear a person otherwise in my Dispositions and Actions, than I have been rendred; and shortly and briefly, I shall fall upon the very points, as near as I can, that were mentioned by that Noble Gentleman; and if I should forget any, I desire to be remembred of them, that I may give the best Answer I can on a sudden; with this Protestation, That if I had had time, I should have given a far clearer Answer, than on the sudden I shall be able to do.

I will take them as they lye in Order: And the first thing in this Answer is, That in *Ireland*, by my means, many good Laws were made for increase of the Kings Revenue, and for good of the Church and Common-wealth; and this I humbly conceive, was not denied directly, only it was inferr'd, That Laws were of no use where Will was put above Law.

That these Laws were made, the Acts of Parliament that are extant, and visible things, do make appear; For (though I might express it darkly, by reason I understood not matters of Law) the truth of it is, before such time as I came there, the Statutes of Wills and Uses, and Fraudulent Conveyances, were not of force in *Ireland*; by which there was a very great mischief that fell many ways, both on the King, and specially on the *English* Planters: For by want of these Statutes, no man knew when he had a good title; and old Entayles would be set on foot, and by that means the later Purchaser avoided; by which means there was a great loss and prejudice to the King in his Wards; which by these Laws are settled, and the Laws of *Ireland* brought much nearer the Laws of *England* than before. And in this point I conceive I am not absolutely gainsayed, but only conditionally, that is, that notwithstanding this, I have set up another Government, Arbitrary, and Tyrannical. To which, I shall not now trouble Your Lordships with an Answer, that being in the particulars of my Charge. And thus I think the first to be fairly and clearly Answered.

Then, that there were more Parliaments in the time of my Government, than in 50 years before. There were two in my time; and if I might call Witnesses, it would appear, that there were not so many within that time before;

before ; but being not material to my Defence or Condemnation, I will not trouble Your Lordships with proof, unless you will require it ; I having them here, that I think can make it good. And whereas in my Answer I deny that I ever had hand in any Project or Monopoly ; and that I did prevent divers, that otherwise would have passed : I said that, under favour, with all duty and confidence ; I must still affirm it, That I never had hand or share in any manner of Monopoly or Project whatsoever, unless the Tobacco-busines were a Monopoly, which, under favour, I shall clear not to be ; but that being part of my Charge, I think it impertinent now to give Answer unto it ; but will satisfie Your Lordships in that behalf, in proper time and place : But more than that of Tobacco, I say absolutely and directly, I never had my hand or share in any Monopoly or Project ; nay, I did, as much as I could, Oppose all of them, particularly the Monopoly of Iron-Pots ; for which, I reserve my self to Answer as part of my Charge : And a new Book of Rates, whereby it was proposed, That the Rates of the Kings Customs might be increased. And this I did Oppose and Disavow, albeit I was a sharer in the Farm, and consequently should have had the Benefit and Advantage of it for my proportion ; and by the Kings gracious Goodness (when His Majesty came to be more fully and clearly informed of it) it was stopped, and never went on : And this I will make appear in that point of the Articles that concern the Customs.

The Fourth is, That I have not had any greater Power, or larger Commission, than my Predecessors in that Government have had ; which I conceive, under favour, is not controverted, but granted, and therefore stands good to me ; or if it were controverted, I am able to make it appear, that I have brought in nothing more than was formerly accustomed in the point of the Deputies-Commission.

The next thing in my Answer is, That the Revenue of *Ireland* was never able to Support it self before my coming thither ; and that I say still, with all Humility and Duty, is most true : And I trust to make it apparently true presently, if Your Lordships will give me leave to call for, and examine my Witnesses. It being the Proofs Your Lordships will look to, and not to what was only alledged by that Worthy Gentleman : And further than Your Lordships shall find proved, I desire not to be believed.

The proof offered against me, is by Sir *Edward Warder*, and Sir *Robert Pye*, who testified, That from the year 1621. nothing went out of the Kings Exchequer to supply the *Irish* Affairs, saving only for the Maritime occasions. And this I believe to be true ; for they be Gentlemen of Credit that speak it : and I will believe them on their Words, much more on their Oathes.

But (under favour) there was for eight years together before my coming, a Contribution of 20000 *l.* a year paid by the Country ; which was no part of the Kings Revenue, nor as I conceive, ever came into Account, nor was paid into the Exchequer, as will appear on the Fifteenth Article ; but was a Gift of the Country, and applied to the Kings Occasions : and that determined, the Revenue fell short 20000 *l.* of the Charge.

Besides, when I came into *Ireland*, the Crown was extreamly indebted, above (as I think (not to stand on particular sums and pence) 100000 *l.* Sterling. And by the Gentlemans own saying, when I came out of *Ireland*,

I left 100000 *l.* in the Kings Coffers : And if any ask where the Accompt for the Subsidies is, There is 100000 *l.* Debt paid, 100000 *l.* left in the Kings Coffers ; (For it appears by Sir *Adam Loftus*, that there was 100000 *l.* in the Exchequer when I came from thence) There was 15000 *l.* employed for buying Land, that yields the King 2000 *l.* a year. And so much of my Lord of *Ormond*, as yields 2500 *l.* a year : So that the Accompts will shew the bestowing of the Subsidies, with as much Advantage as might be, for the Kings Service. That the Revenue was short, I could make appear clearly. The occasion that no money came out of the Exchequer, was accidental, by a Contribution of the Country, no Revenue of the Kings. And if that had not been supplied, there had been no possibility of defraying the Ordinary Charges of the Crown out of the Revenue ; and that is the point wherein I differ from the Gentleman, his meaning being, That the ordinary Revenue of the Kingdom could not bear the ordinary Charge of the Kingdom. And I desire that Sir *Adam Loftus* and Sir *Robert Dillom*, may be examined upon such questions as shall be propounded in this point.

Lord High
Steward.

Your Lordship may examine them, but not upon Oath.

E. of *Strafford*.

I will not displease, but perfectly obey in every thing.

Manager.

It will not be denied, but the Revenue is increased by such means as my Lord of *Strafford* hath increased it by ; yet it was not the natural Revenue, but the additional part, that came in by the Bounty of the Country, that supported the Charge many years before my Lord of *Strafford* came : So that if it be said *Ireland* supported not it self before he came thither, in the general sense it is untrue ; if it be said in a special sense, that the Kings proper Revenue did not support it, that his Lordship says is true.

E. of *Strafford*.

Whence I infer, that it was not much material to insist on this, for I meant it so ; and it is plain and clear, that the Kings Revenue there was not able to bear the Charge of that Kingdom, by very near 23000 *l.* or 24000 *l.* a year : And it is now able to bear its own Charges, and yet there is an increase of Charge by 600 Horse ; by which, the Army is stronger than it was.

And whereas it is said, I was short in the Shipping ; I affirm, that under favour, I was not. It is true, that in the time of the late Justices, my Lord of *Corke*, and my Lord *Loftus*, the last years Charge of the Shipping was paid forth of *Ireland* : But it is as true, that when the Kingdom underwent the Charge, they lessened the Charge of the Kings Army, by striking 500 off from the Army ; and transferred the Charge of their pay, to the easing of the Kings Revenue on the Navy. But that Charge being now increased again, and brought to the former certainty, I conceive I might truly say, There was in my time an ease to the Crown of *England*, (all things considered) which formerly it had not : It being not with the prejudice of the Kings Service elsewhere, or lessening the standing Army, which in all times hath been the strongest support of the Kings Justice, and Ministers there ; and which it deeply concerns the Crown of *England*, to keep in such a Condition, that they may be responsible to the King for the Services he shall Command : So that though the Shipping Charge was paid the last year, yet so paid, that the Kings Army was weakened 500

Foot ;

Foot; whereas now it is paid, and the Kings Army raised to a certainty again; and a Change is made to the better; for instead of 500 Foot, there is 600 Horse. And that I say, my Lord of *Corke* remembers very well, there being Letters of his, That Sir *Pierce Crosby* his Regiment, should be put off, and the money for maintenance thereof, should go to defray the Charge of the Kings Ships, for guard of the Coast.

And yet the Charge is much more now than it was; for the Charge was then only two Whelpes, as my Lord *Mountnorris* said: And now there be three Ships, The *Swallow*, a Ship of the Third Rank, and two lesser Vessels; so that I conceive my Answer, in my sense, was true.

For the matter of having money out of the Exchequer, I conceive my Answer to contain no matter of Untruth; for I had out of the Exchequer only 15000 *l.* and for that the King will be answered 2000 *l.* a year good Fee-farm Rent, in lieu of it; which he thought was no ill bargain. It is true, (I say) the money spoken of by Sir *Adam Loftus*, was borrowed on my own, and Sir *George Ratcliffes* Bond, to be paid upon sight. At that time (I praise God) I had Credit for 20000 *l.* and at this time (I thank God for that too) I have not Credit for 20 *d.* Gods Will be done, I obey it. But this money is honestly and justly paid; Where is the Crime then? might not I borrow of a Gentleman that would trust me with money, but it must be an Offence? It is true, it was of the Kings money; but the King had no use for it at that time. Had not I made use of it, it must otherwise have lain in the Exchequer, and yielded no profit; and besides, I borrowed it of one that was Accomptable for it.

But since I am put to it, I will shew that which will clear it from being a Crime indeed; which according to the Duty I owe unto His Majesty, my Master, his Command hitherto have I kept private to my self: And that is the Kings Warrant, being all of His own Hand writing.

Sir *Adam Loftus*, being then Vice-Treasurer, and now demanded the question, Whether that Warrant was produced to him at the borrowing of the money, confessed, that my Lord of *Strafford* never told him of the Warrant.

Witness.

The Warrant was read, containing a Licence to make use of 40000 *l.* of His Majesties Treasure, now in the hands of His Majesties Vice-Treasurer, for three years; Provided, that for Security, there be always left in the hands of the Comptrollers, a Stock of *Tobacco*, amounting to 40000 *l.* at the least; with a direction to conceal this particular favour to him, that it might not be brought into precedent.

Kings Warrant read.

There was accordingly so much *Tobacco* left. But, by what Law I know not, The Magazines are seized on by Order from the Commons House of Parliament, my Goods possessed, and given over to others, to sell at their own prices; my people imprisoned, as if they had been Traytors Goods, and as if an Inquisition had been found upon me as a Traytor. And this is my Misfortune, to be very hardly dealt withall by the Commons House there, to say no more.

E. of *Strafford*.

And whereas by the Kings Goodness I had liberty to take 40000 *l.* I took but 24000 *l.* And where I had liberty to take it for three years, (which expires not till *Michaelmas* next) I paid it in long before the time.

And

And by this one particular I hope it will appear to Your Lordships, and the Gentlemen of the House of Commons, how Noble it will be to believe Charitably of me, till they hear all can be said ; for I trust, in the whole course of this Trial, to appear an honest man.

And whereas I said, I never had but 15000 *l.* out of the Exchequer, and yet had 24000 *l.* borrowed as aforesaid. The King Commanded me I should not take notice of His gracious Favour ; and therefore I conceive, that in Duty to my Master I ought not to have taken notice of it, otherwise my Answer should have clearly and plainly exprest it : I never having Disobeyed His Majesty, nor, by the Grace of God, never will.

For the 7000 *l.* for the Guard of the *Irish* Coast, that was mentioned already ; and I shall not need to Answer it further.

To the point of restoring the Possessions of the Church in a great measure ; I say, there was not only a Restitution, but a Preservation by an Act of Parliament, for preserving the Possessions of the Church from being mis-used by the present Incumbent, to the prejudice of the Successors ; which Act, I wish were in *England* : But that I conceive not to be Controverted, but granted me.

But it is said, The Possessions of the Church were restored in an Illegal way, to please my Lord of *Canterbury* : To which I Answer, The Gentleman indeed spake it, but there is no proof of it, neither hath he offered any proof ; and till it be proved, I conceive it not fit to trouble Your Lordships with Answering it : I have done nothing in Church or Common-wealth, but Justly and Uprightly.

Albeit I conceive it a hard case, that having the Honour to be the Kings Deputy sitting in Council, where there be Twenty who Voted as well as my self, That I should be noted to Answer for them all, though I did constantly submit my self to the Major part.

And as to my Lord of *Canterbury*, I beseech Your Lordships to think, That what I have done for the Church of *Ireland*, was out of a faithful Conscience to God Almighty, out of a desire to increase the Religion I Profess, and which I will witness with my Blood, by the Blessing of Almighty God, if there should be occasion. And when I have done it with respect to that Piety of His Gracious Majesty, which I would faithfully pay Him. I desire it may not be put upon me, as done in an respect only to my Lord of *Canterbury*, where no such thing is proved : No, I did it out of Conscience, my Duty to God, to the King, and to the People, that they might be instructed in the way to Eternal Life. And I beseech Your Lordships to believe, I have a Heart a little greater than to do any such thing to please any man living, with Modesty be it spoken.

For the Building of Churches, I confess, I built not any, and in my Answer I said no more, but that Churches were built ; which the Worthy Gentleman acknowledged in some part. I confess they were not Built by me, or at my particular Charge ; nor do I say otherwise in my Answer : And it had been a vain thing to have said it, though I had done it my self.

But it is said, the Answer is not right, in saying there be divers Worthy Church-men preferred ; and three are instanced in, Bishop *Atherton*, the

the Bishop of *D.* and one *Gwyn*: To this I beseech Your Lordships, that I may be bold to let the Gentlemen know, That Bishopricks are not in the gift of the Deputy, but of the King; and that he is not Responsible for what the King doth.

But not desiring to deny any thing that is true, I confess, I think Bishop *Atherton* was unknown to His Majesty; and that I my self recommended him to the Bishoprick; and at that time I thought the Bishop a Person fit for that Charge: But suppose he had a secret fault of his own, (God knows it was unknown to me) may not a man be deceived in his Judgment of a man, but this shall be turned against him? It is a very easie thing for a man to cover his faults from the eye of the world; I thought him not a vicious man, he proved so, and he had his merit, he suffered for it: And unless I had the Inspection of Almighty God, I suppose, this cannot be laid to my Charge; if any private End or Respect should appear in the doing of it, I desire no more of Your Lordships Favour; and I profess, I had rather be out of the World, than not have the Favour of Your Lordships, and the Honourable House of Commons; of whom I desire, that they would hear me with that Equity that they hear every thing.

For the Bishop of *D.* all that is mentioned against him is, That he is Impeached of High Treason by the Commons House of Parliament in *Ireland*: And how the Bishop will acquit himself I know not; but for that the Bishop must Answer for himself, not I.

This Bishop hath lived in my House a long time, as my Chaplain; and I humbly recommended him to that Bishoprick, taking him (and I hope he will so approve himself) to be a very Learned man, and that I think nobody will deny: certainly he hath the Elements to make him a very Worthy Church-man as most I know.

For that *Gwyn*, I profess I never heard of him before, nor do I know him; But recollecting my thoughts, I think he was recommended to me by my Lord of *D.* for in matters of the Church I did use that Gentleman; and if I were to begin the World again, I would use him still, holding him a very honest Worthy man: And I think there was some Rectory or Impropriation that the Earl of *Corke* had possession of, which was restored to the Church; and it was of so small and trivial a value, that they knew not who to get to serve the Cure; and on that occasion this man was recommended to it: And I think, that if it shall come to be examined, Thirty pounds a year will go far in his preferment. And if such a thing should happen, and miscarry in his hands, it is no such hainous Crime as is objected.

But I desire leave to shew what I have done in this kind instead of this Mr. *Gwyn*; and Your Lordships may see a List of those I have preferred to the Church of *Ireland*, and perhaps they may be known to some of Your Lordships, and to many Gentlemen of the House of Commons. And first I say, I preferred Mr. *Gray*, and have done for him according to the means I had by the Favour and Goodness of the King; perhaps he hath that which is worth 3, or 4, or 500 *l.* a year by my Gift. And this Mr. *Gray* (if I be not mistaken) was sometimes Chaplain to a Noble Person that sits on the Earls Bench; and if it were material further to enquire of him, I might give satisfaction what he is. I likewise brought into that Kingdom Mr. *Tilson*, now Bishop of *Elphin*, and sometimes Fellow of *University College* of *Oxford*, a most Worthy, Honest, Religious Person he is; and those

those that know him, I am sure will give him that Testimony. I likewise preferred Dr. *Margetson*, Dean of Christs Church; he was of *Cambridge*, and a Worthy man. Mr. *Forward*, Dean of *Drummore*, an *Oxford* man; who if he were known, would appear worthy of that Preferment. Mr. Dean *Cressy* an *Oxford* man. Mr. *Roade*, Dean of *Derry*, a *Cambridge* man, of *Sydney Colledge*. Dr. *Wentworth*, Dean of *Armagh*, of *Oxford*. Dr. *Price*, Dean of *Conaught*, of Christs Church in *Oxford*. Mr. *Thorpe*, a *Cambridge* man. I preferred likewise one Mr. *Parry*, whom I found in *Ireland*; but all the rest I brought, and sent for out of *England*: Nay, I sent for them, and did those things for them before they did ask the Question, or knew of it; That being a means, under Gods Blessing, to conform that Kingdom to the Church of *England*. And these, and far greater numbers than these, to my best Judgment and Understanding, I made use of as Instruments to Gods Glory, His true Service, and the reducing of the people to the Profession of the same Religion that's here in *England*; and for no other end. But concerning my Carriage of the Trust reposed in me by the King, touching these Ecclesiastical Preferments, I desire no other Testimony or Witness for me, but the Lord Primate of *Ireland*, who is sick, and cannot come hither: To whom I will Appeal, whether I have not in my preferring to the Church Preferments, carried my self with all clearness and care I could possibly.

To the point of increasing of Protestants; if Your Lordships please to hear any thing in that kind, I shall call my Lord *Dillon*, and Sir *Adam Loftus*, who if they should be asked, Whether there be more Protestants in *Dublin* now than when I first came thither? I doubt not but they would give an account of a greater number.

Manager.

We Charge him not upon this point; so it was set aside.

E. of Strafford.

My preferring of none but Protestant Officers, if I mistook not, the Noble Gentleman did acknowledge.

Billeting of
Soldiers in
Dublin.

To the disposing of the Army without Grievance to the Subject; I leave that, (which was spoken with so much Advantage and Ability, above any thing that from such a poor man as my self, could be expected) and proceed to that which was proved; observing, That one only Testimony was produced, (*viz.*) Alderman *I.* who said, they have a special Charter at *Dublin* to exempt them from Billeting of Soldiers. But whether it be so or no, it hath ever been denied by the Deputies: And by his own Confession, the Foot-Companies of my Lord of *Faulkland* were Billeted in *Dublin*. And whereas it was said they had Lodgings, not Money, That was altered upon a Composition with the Soldiers, who can expect only Lodging; but if for the Ease of the Town they will allow the Soldier Money, and leave him to provide for himself, it is all one.

For the Horse-Troops, My own is, and ever since I was there, hath been Billeted in *Dublin*. And it is in the power of the Deputy to Garrison part of the King's Army where he pleases, and without controversie, hath been so at all times.

And I desire that my Lord *Ranulagh* may be asked, Whether the Soldiers of the Company he hath, be not Billeted in *Athlone*, at least some part of it. It is true, my Lord of *Faulkland's* Troop was not Billeted

in

in *Dublin*; but they were in the Counties round about, which was more chargeable.

And besides, here is produced but one single Witness; and I hope my own Answer may stand equal, and in as much Credit, as a single Testimony, that on the matter, confesses the thing in a great part.

For the increase of Shipping, the Gentleman question'd it not; and really there is now 100 Tun for one, that was there before my coming. And if I had time to send into *Ireland* for the Certificates of the Officer of the Ports, (the Surveyor, I think) who views the Ports once a year, it should appear to Your Lordships, that I have not abused you, nor the Honourable Gentlemen that hear me. And whether that be an Argument that the Trade and Wealth of the Kingdom is improved, (I appeal to all that hear me) when the Shipping doth so much increase: And the Customs, which were not above 13000 *l.* a year, are come to 40000 *l.* and that on the same Book of Rates.

Increase of Shipping.

Concerning the Sentencing of Jurors, and the questioning of them in the *Star-Chamber*. It is true, divers of their Sentences were past: And to those Sentences I refer my self, till something be proved against the Truth and Justice of them. And I think it will stand with Your Lordships Goodness, to judge the best of the Court of Castle-Chamber, wherein the Deputy hath but one Voice, They being the King's Ministers, and standing upon their Oathes to do their Duties: But I think in my Conscience, there was the greatest reason in the World to sentence those persons. And when it comes to be examined, it will prove so. And unless a strict hand be in that kind held upon the Natives, the Priests shall carry them against all things that can be. For either they do not, or will not, understand their Evidence: so that it begets one of the most crying sins in *Ireland*. And if some Examples have been made, they are upon strict grounds and reasons of State. For if Jurors going directly and manifestly contrary to their Evidence, be not punished, that high and ancient Trial by Jury, will fall. And is it not ordinary in *England* to have Juries Sentenced for not finding according to the Evidence? But if any one hath not been Just, upon instancing of the particulars, I will Answer for his Vote as well as I can: For it must stand or fall according to the Merit of the Cause.

Jurors Sentence in the *Star-Chamber*.

But one thing which I observe the Gentleman to say, is very Considerable; for he tells what was spent there this last year. This I have little to Answer for: For when I came out of *Ireland*, there was 100000 *l.* in the Exchequer; and how it hath been issued, I know not, but it hath not been done by my Warrant or Direction; yet I doubt not but it will appear, when examined, that it hath been faithfully and justly disposed. But I am not to Answer for it, only I can say, That when I came out of that Kingdom, the Kingdom was so far from being 60000 *l.* in Debt, (as some such thing was spoken) that there was 100000 *l.* in the Kings Coffers.

And for the 50000 *l.* received by me in *England*, Mr. Vice-Treasurer in *Ireland*, is Accomptable for it, though Mr. Vice-Treasurer never touched the money, and my self as little. And Mr. Vice-Treasurer discharges himself of it by Warrants issued from me, and charged it upon other Accomptants; who when they come to Account, I doubt not but a good Account will be given. Though (under favour of the Gentleman) of

the 50000 *l.* 14000 *l.* is yet unpaid, only there is an Assignment. But it lies on him and his Credit for discharge of the Kings Service : And it must lye on him, or on some other person, if himself have nothing left him.

And whereas it is said, the money I had as borrowed, was taken out when the Kings Army was in want, I desire Your Lordships to observe, It was two years ago when I had this money ; and then there was 100000 *l.* in Surplusage. And though the King gave me Liberty, of His Goodness, to use it three years, it was not wanting to the Army when it stood in need of it.

The next thing urged, was my Cozenage in the Custom-house ; and that I had there Cozened the King notably, 5 or 6000 *l.* a year deep.

To Answer this, I reserve my self till I come to the particular Article ; but desire leave with all Modesty to say, That it shall appear I have not Cozened, nor deceitfully abused His Majesty for a Farthing Token, neither in that, nor in any thing else. And that there is no other Allowance, nor Defalcation by the Grant wherein I am Interestted for 15600 *l.* a year, and 8000 *l.* Fine, then was allowed to the former Farmers, that had it at the Rent of 13000 *l.* a year. And that I have made the King a much more profitable bargain than he had, or could have without it.

The next was for the Revenues of the Church, That they were got without Rules of Justice ; And were an Offering of Rapine. And that I had an Eye to my own Preferment, in the Person of my Lord of *Canterbury* : To that I have already Answered.

And thus having run over all the Preamble, I humbly begg leave to make some Observations upon the Testimonies produced, (*viz.*) That the Examinations of Sir *John Clotworthy*, and my Lord *Ranulagh*, I conceive, do not concern me. Mr. *Barnewells* was for things spoken when I was out of the Kingdom ; and were concerning Sir *George Ratcliffe*, and not me.

For the Remonstrances shewed, wherein they disclaim the Preamble to the Act for four Subsidies, I beseech Your Lordships to consider, how unlikely it is that I should do any thing in that kinde fraudulently or surreptitiously : For by the Custom of that Kingdom, the Laws must be transmitted hither under the Hand of the Deputy and Council, and so pass the Seal, and be returned to *Ireland* ; when that Law was transmitted, I was here in *England*, as I take it : And absolutely and directly, I protest I never knew any thing in the World of that Preamble, never saw it, nor heard of it, I think, till I saw it in the Copy of the Remonstrance ; I never heard it was excepted against, it having pass'd the Vote, and three times reading, in both Houses : And I would have consented to have it struck out, as in truth I will now, being far from any thing of vanity, and not thinking my self better or worse by being put in or out : And if it were charged upon me as a Crime, or were material for me to prove it, I think I could by Witness in Town prove, That it was the general Vote of the Commons House, and passed with as much Applause and Chearfulness, as any thing. And, that if my Lord *Dillon*, and Sir *Adam Loftus*, and some other of the *Irish* Commissioners, were examined upon Oath, I believe they would

would Swear they never heard any Exceptions against it, till the time I was Impeached with High Treason.

For the Particular concerning Sir *Pierce Crosby*, it concerned not me ; but the reason of his being put from the Board was this : All Laws must first be transmitted from the Deputy and Council ; the Bill against which he Voted was transmitted, Sir *Pierce Crosby* was there, and set his hand to the transmission ; and because he did not except against it then, being a Member of the Board, but did except against it afterwards, it was thought fit he should be Sequestred (as I remember) till His Majesties Pleasure should be known ; but Committed he was not : And it was done by the Vote of the whole Board, but no way to infringe the Liberty of the House ; and so in Obedience to Your Lordships, as near as I could, with a great deal of Weakness and Infirmary, I have said as much as I can for the present recollect, towards the making good the Truth of my Preamble.

And I conclude with this humble suit, there being some Exception took at some Words that fell from me, Many mens Tongues and Mouthes may offend, where their Hearts do not : And that in truth I may say, my Heart did not offend against that Reverence and Duty I shall always pay, on all occasions, to the Honourable House of Commons, and every Member of it ; but to others, that are neither Members of this House, nor of the House in *Ireland*, I meant what I said : And I do beseech the Gentlemen of the House of Commons to accept my Acknowledgment of this truth : and that my Words may not be any ways raised against me as a Cause of their thinking worse of me ; or that I should be peccant or offending, in having other thoughts of the Members and Proceedings of the House, than with all Submission, and all belief of the Equity of it.

To which Defence, one of the Managers appointed for this days Service, briefly replied, in substance as followeth.

What I have said in Answer of the Preamble, was not by way of Charge, but only for disproof of that whereby my Lord of *Strafford* would take away, or nullifie the Charge. So that if the Charge remains in force, the Services performed by him, are not effectual to mitigate it.

Manager.

That what we have proposed still stands unavoi ded, as we conceive, notwithstanding any thing my Lord of *Strafford* hath said.

That as concerning Sir *Pierce Crosby* his agreeing to the Transmission, if that be true : That there is a preparative part of the Law, and there Sir *Pierce Crosby* might speak as a Councillor ; But there is a Legislative part of the Law, and that is done in Parliament ; and these being distinct, if Sir *Pierce Crosby* did do any thing at Council-Table, it deprived him not of his Liberty to speak in Parliament. But we are informed, he gave his denial to consent to the Transmission.

And if my Lord of *Strafford* were not guilty in his own Person of breach of Priviledge ; yet if under his Government, Priviledge of Parliament be broken, it is no matter of Merit to say, he procured Parliaments.

It is no Answer to say, things are not proved, when any thing we urged, is contained under an Article ; for then he refers the proof when he comes to the Article ; as many things concerning the Lands of the Clergy, will be made good in the proofs of the proper Article.

Dd 2

That

That he hath preferred many Divines ; that is no part of his Merit, nor takes away his fault, though it be true.

That for the Value of his living, we never heard of it till on this occasion ; but be it small or great, it is nothing to justify my Lord of *Strafford*, being offered to this purpose ; That though his Lordship were careful of the Lands of the Ministers, He was not careful of the Ministers themselves, in suffering a Groom to execute that high Function ; Ministers being not to be chosen according to the Quality of the Living, but according to the Quality of the Function.

That for the matter of Monopolies, if his Lordship do stop any, he may stop them for sinister Reasons and Respects ; and however, there is no Compensation, doing his Duty in one thing, not satisfying for Neglect in another.

And then concluded, That what we have not now replied unto, shall be made good in the Charge ; and ought not in their Lordships Opinion, make my Lord of *Strafford* more plausible ; for the Charge shall be made good against him in the truth of the Fact, and the Aggravation of it.

Hereupon the Court was Adjourned, and the Committee directed to proceed to the Proofs conducing to the particular Charge, the next Morning.

The Third day.

Wednesday, March 24. 1640.

Gentlemen,

Lord High
Steward.

YOU who are of the Committee to manage the Evidence against the Earl of *Strafford*, I am to acquaint you, Their Lordships have considered of that point of Sir *Pierce Crosby*, his being examined as a Witness, and my Lord of *Strafford's* Exceptions ; and have resolved that he shall be Examined ; and that the Validity of his Testimony shall be left unto their Lordships Judgments.

Mr. Maynard
Manager.

Your Lordships have with great Patience attended the Charge that hath been read, and the Answer, and the Exceptions taken to the Preamble, which my Lord of *Strafford* to ingratiate himself, did make to the main of his Defence.

My Lords, I shall repeat little of that that hath been said, only pardon me if I say this to Your Lordships, That wherein my Lord of *Strafford* answered to very many particulars, yet to that one main he answered not, which was principally objected against him ; which I therefore speak to put him in mind of it, that if he can, he may Answer : And that is, Your Lordships were pleased to hear the Complaint and Protestation of the whole Kingdom of *Ireland* read before you. The principal of their Aim seems to be, to take off the Extolling of my Lord of *Strafford*, that himself, or his Agents, had put upon him in a Bill of Subsidies ; wherein indeed the
Praise

Praise and Honour due to His Majesty, was much Attributed to my Lord of *Strafford*, which grieved the Parliament, who would take it off, and my Lord of *Strafford* is now willing to lay it down; and he doth well to do so when he can keep it no longer, when those from whom he took it by fraud or force, would wrest it again from him. I desire Your Lordships to remember, and I am sure you will, That the main of our Complaint is, His alteration of the fundamental Laws against Will; His introducing of new Laws at his Will and Pleasure: This is not only the Cry, but the Testimony of a whole Kingdom before Your Lordships; of all the Lords and Commons of *Ireland*.

I shall not touch that which concerns breach of Priviledge of Parliament, he would fain put that off on Sir *George Ratcliffe*, his bosom Friend, and put it off himself. My Lord of *Strafford* Sequestred Sir *Pierce Crosby* from the Council, his Vote went with it, others joined with him; but I am sure he moved it, he concurred with it.

But now, *My Lords*, I humbly Address my self to that we are ready to maintain, The Body of the Charge: And because some time hath been spent between the reading of the Charge, and the main of the Defence, I desire leave to open what is the Nature, what the Height and Quality of the Offence, of which this great Lord stands Accused before you?

My Lords, It is a Charge of the highest Nature that can be against a man; A Charge of High Treason. It is a Treason, not ending and expiring in one single Act of a discontented Heart, but a Habit, a Trade, a Mystery of Treason exercised by this Great Lord, ever since the Kings Favour bestowed on him.

My Lords, It hath two Evils to deprive us of that which is good; that is, to subvert and take away the fundamental, the ancient Laws, whereby we are secure of whatsoever we do enjoy; it hath (*My Lords*) a positive Evil in it, to introduce instead of that an Arbitrary Government, bounded by no Laws, but by the Evil Councils of such Ministers as he hath been.

My Lords, It is the Law that gives that Sovereign tye, which with all Obedience and Chearfulness, the Subject renders to the Sovereign. It is the Law (*My Lords*) that gives Honours to the Lords and Nobles; Interest, Property, and Liberty to the Subject.

My Lords, The Law, (as it is the Foundation and Ground of all these) hath its distribution in a course of Justice. Justice is derived (as by so many Channels) by the several Courts of Justice; whereby the Kings Justice (for it is His) is brought and conveyed to the Subject.

My Lords, Of all this hath my Lord of *Strafford* endeavoured, not only to put the Subject out of present Possession, but to make him incapable of the future Benefit of it.

Other Treasons, yea, a Treason against the Person of a Prince (which is the most Transcendent and High Treason that can be) fall short of this Treason; For a good Prince may be gathered to His Fathers, yet another may succeed Him, that supports the Glory and Justice of His Throne. We have had Experience of it: When blessed King *James* was taken from us to Heaven, *Sol occubuit & nox nulla secuta est*. But if any one such a design as this should take effect, That the Law and Justice should be taken from the Throne, and Will placed there, we are without hope of ever seeing Remedy.

Power

Power in so great a measure taken, is not easily laid down, unless it be by the exceeding great goodness of so merciful and just a Prince as we have.

My Lords, The Particulars of this Treason are Conveyed to Your Lordships in 28 several Articles. I shall shortly and briefly touch but the Heads of those on which I shall insist, and give some distribution of them. And I think the best way will be this; To consider first what he did, and what he said, before he went into *Ireland*; then what he did and said there; and what he hath done since. And in all of them, you will find this his main design, which I have opened, That Law might no where stand against his Will; and to settle it, that he might continue so.

My Lord hath declared this in incroaching Jurisdiction where it was not, in exercising an Arbitrary Power under that Jurisdiction; In taking on him a Power to make Laws; In Domineering and Tyrannizing over the Lives, the Liberties, the Goods, the Estates, and whatsoever is the Subjects.

And (*My Lords*) this hath he done, not only on those of the meaner sort that could not resist him, but on the Peers, on the greatest and most ancient Nobility of *Ireland*: And what might Your Lordships expect, but the same measure at his hands, had his Will had its passage here, which it had in *Ireland*.

I shall now come to the particular Articles.

1. And first, Whereas it pleased His Majesty to place him with Power and Honour in his hand in the North as President, he had not been long there; but that Commission which bounded and pleased his Predecessors, he must needs surmount and overgo. There was a Commission in 16 Jac. which the then Lord Deputy had, in which was that Legal phrase *Secundum antiquum cursum*, his own Commission 4 Car. pursued that, without any alteration; but being in but four years, this would not please his boundless Ambition, he must needs have the Power that the Lords in the *Star-Chamber* have, put in in express terms, a Power to proceed according to the course of the *Chancery*, that his Conscience might limit other mens Estates; That his Injunctions might stay other Proceedings at Law: And which is highest of all, if any thing be done in that Court, within these Instructions, than no Prohibition should be Awarded. He would make himself safe from any supervising of other Courts.

If he Committed any man to Prison, though a *Habeas Corpus* were granted (then which, the Subject hath no other remedy to vindicate his Liberty) the Officer (for the encouragement of those which be under his Power) must not obey it. And if any Fine be put upon the Officer, then comes a command in this Commission, That the Fine shall be discharged; so he not only takes a Power to himself, but also takes the Scepter of Justice out of the Kings Hands; for by this means there is an impossibility the Subject should have the Justice that my Lord knows is due to him; and he knows it right well: for when he was a Member of the House of Parliament, it was his own motion, who now stands at the Barr, That all the Officers and Ministers of State, should serve the King according to that Law, and he is the first Officer and Minister of State, that breaks it; and in the most transcendent degree that ever it was broken.

My Lords, He doth in this, as much as in him lies, say to the Laws, Do your worst; You can but Fine, and that you can do shall come to nothing; The Fine shall not be paid, The Officer shall not obey you.

If

If this had been a single Act, we should never have accused him of this Treason, though it comes very High, and very Transcendent. But the Oppressions and Injustice, the Councils and Speeches that we present to Your Lordships, we present them not singly, but as together, designing and noting, what a Treasonable purpose and disposition is in him.

2. *My Lords*, The next thing he doth when he is in the North among the Justices of the Peace, and the People attending for Justice, you shall see what Encouragement he gives them to look for it; and how foul a thing he dares to fling on the Sacred Majesty that did advance him. He tells the Justices that were to do Justice, and the People that were to receive Justice, That some of the Justices were all for Law, but they should find, The Kings little Finger is heavier than the Loyns of the Law. Your Lordships may consider what a transcendent Speech this was, out of whose Mouth it came, what sad Accidents happened upon it; nothing could move this Lord to utter it: but his Will and his Violence must out, though he burst a Kingdom in pieces for it.

3. The next thing is this, When he goes into *Ireland* you will find his Temper and Spirit not a whit Allayed; but now being further from His Majesties Person, he is higher in his Power and in his Will. It is true, that Kingdom was annexed to this many years ago; but they that now possess the greatest part of it, are Subjects of this Kingdom, descended from them that went from hence thither. Yet he tells them in a solemn Speech, not suddenly but solemnly, That *Ireland* is a Conquered Nation, and the King might do with them what he would; and that their Charters were nothing worth, and bind the King no longer than he pleases. Surely (*My Lords*) We might see what he would do if he had Power. But God be blessed, we find not that disposition any where resented by His Majesty; and we hope that such Councils shall never have Access to so good and gracious an Ear.

4. The next thing, he stays not in words, but will be as good as his word if he can; and he begins high. For that we present next, is a Peer of the Kingdom thrust out of his Possession by my Lord of *Straffords* Order; and when he Sues at Law for recovery of his Right, my Lord Threatens him. Truly Threatnings are not good, in such a case, where a man Sues for Justice, And from him that ought to Administer Justice, and further him in it; yet he Threatens him Imprisonment, to which Peers are not ordinarily liable.

First my Lord tells him, He will not have Law nor Lawyers question his Orders; he might debar the Lawyers in some Cases, but why a man should have a Spleen at the Law, that his Orders should not be examined by, that I know not. And he goes higher; for when there was an occasion to speak of an Act of State, he tells him, That he will make him and all *Ireland* know, that as long as he had the Government there, any Act of State made, or to be made, should be as binding as an Act of Parliament.

My Lords, He cannot go higher in Speeches than this, That an Act of State of his own making, and his own Power, should be as binding as an Act of Parliament.

Nay, he tells them in Parliament, That they were a Conquered Nation, and must expect Laws as from a Conquerour.

5. Next

5. Next we shall shew divers Instances wherein he exercises Power over the Lives, Lands, and all that is the Subjects; deduced into several Articles, *viz.* the 5th, the 6th, the 7th, and the 8th.

In particular, one I shall be bold to open, That is the Case of my Lord Mountnorris, another Peer of that Kingdom, and a great Officer there. Some words fell from that Lord, speaking of one that had trodden on my Lord of Straffords Toe, That he hoped the Party did it not in Revenge; for he had a Brother that would not have sought such a Revenge. For these words, spoke at a private Table, half a year, yea seven months before, my Lord of Strafford calls a Council of War, and judges his Lordship to death.

My Lords, It is no wonder that he would make the Kings little Finger so heavy, that could make his own Toe heavy enough to tread the Life of a Peer under his Feet.

And he did not only give Sentence in that Case, but caused Execution to be done in another Case, upon one D. who was condemned by Martial Law, and hanged at *Dublin*, where there was no War at all.

Other particulars will follow when I fall upon proof.

9. Then he comes to make Laws; and that is in the 9th Article. By the Laws of *England* and *Ireland* too, the Ecclesiastical Power is distinct from the other, it not extending to the Imprisonment of the Person, but is to attend the Kings Courts, and to receive directions from thence; yet he makes a Warrant to the Bishop of *Downe*, (and he made it to others too) That if any of the poorer sort did not appear upon the Bishops Citation, or not obey when they did appear, they should be Attached and Imprisoned; Here he makes a Law of himself, and subjects the Liberties of the Subjects to his own Pleasure; but this was for the poorer sort of People, though Justice sees no difference in matters of Estate, betwixt Poor or Rich: But when he hath brought it on the Poor, he will afterwards bring it on the Rich.

10. The next is a Power of laying Impositions on the Subjects: First he is a Farmer of the Customs, he puts excessive Rates upon the Commodities; that which is worth but 5 s. as the Hydes, he will have valued at 20 s. and the Wool, which is worth 5 s. he will have it valued at 13 s. 4 d. and by this he takes away, in effect, whatsoever the Commodity is worth; for the Customs come very near the Value.

Another particular in this I shall be bold to open, and I hope his Lordship will provide to give an Answer, He hath advanced by this the Kings Customs, and a Rent of 1350 l. is increased to the Crown: But it will appear to Your Lordships, that the Crown hath lost, and he only hath gained. And whereas my Lord of Strafford says there was no other Defalcations in his Patent, than in the former, that will fall out to be otherwise; for this is the State of the bargain,

There was a former Rent of 9700 l. which the Duke of *Buckingham* paid out of this Farm. On the Earl of Straffords Patent that Rent is reserved, and as much as came to 1350 l. more, but in lieu of 1350 l. advanced to the King, my Lord of Strafford hath in his Grant the Surplusage of Wines (which were not in the Dukes Patent) worth 3400 l. a year, besides a Rent paid for the Term of the Wine of 1400 l. And whereas there was no defalcation of the Customs of *London*, *Derry* and *Colerane* in the Dukes Lease, which amounted

amounted to 1500 *l.* a year ; my Lord of *Strafford* must have a defalcation for them : And then the Seizures, which were 500 *l.* a year ; and for *Knockvergnus* and *Straniford* 2500 *l.* a year, so here is above 5000 *l.* a year less to the Crown, in lieu of the advance of 1350 *l.* a year, besides the increased Customs, amounting to 12000 *l.* a year : And yet he again hath far exceeded this proportion. We say further, he doth not only impose on the Subjects, but takes away that which is the Subjects utterly and entirely, as in the case of the Flax. It is true, the Employment of it belongs to Women ; but it is the greatest Commodity (one of them) of that Kingdom, and of greatest profit, the Revenue of the Custom of it being 800 *l.* a year ; and this he hath gotten into his own hands and possession. This he got from the Natives, and took it to himself. He doth, for that purpose, issue a Proclamation, That they shall use it in such a way wherein the Natives were unskill'd, and if it were not so done, it should be seized ; and it was seized accordingly, yea their Houses broke open, and their Goods taken away, and brought to my Lord of *Strafford's* house, where they were employed in his works. The like we shall instance in Tobacco.

15. Next we shall shew to Your Lordships how he hath levied War upon the Kings Subjects. We opened in the beginning, what an Arbitrary Jurisdiction he set up ; here we shall shew how he used it by a meer course of Enmity and Hostility. For (*My Lords*) this was the course ; If a Decree or Order were made by him, and not obeyed, he issues a Warrant to the Sergeant at Arms, to go to the next Garrison, and take Soldiers, with an Officer, and carry them to the House of the party in question ; it is no matter where it was, but to the House of them that were pretended to be disobedient, they were to go : If the Decree had been to raise so much money, or to put parties in possession. In plain terms, the Soldiers were to lye like Free-booters, and Enemies on the King's People, to eat them up. They have killed their Sheep, their Oxen, and they have lain not on the parties only, but on their Tenants, till the party comes in and renders himself. They have burnt their Houses, taken their Wives, and Friends, and carried them away, till Obedience was rendered, and this is a levying of War upon the King ; For the King and the People are both so united in Affection and Right of Law, that there cannot be Violence offered to the King, but it redounds to the People ; nor can any Oppress the People in this sort, but it redounds to His Majesty. Besides, it is contrary to a Law of that Kingdom ; whereby it is Enacted, That if any person shall assault Horse or Foot, on any of the Kings People, without their consent, it is High Treason.

The next thing we shall go to, is the Favour he shewed to the Papists, in their Compositions and Exemptions from all penalties of Law ; for they were expressly not to be proceeded against, nor to be Convicted ; and so that which hath influence into Religion and Reformation, is quite taken away, and nothing but matter of Profit is left.

The next Article is that that concerns the Kingdom of *Scotland*. First he begins with them in *Ireland* ; contrives an Oath, which is set forth in the Articles, That they shall obey the Kings Royal Commands without exception. This he enforceth, by Fining and Imprisoning them that disobeyed him : And so in all the other particulars when his Proclamations

mations were broken, his course was by Fine and Imprisonment to enforce an Obedience.

My Lords, He doth not only press them in their Estates, but strives to infuse into His Majesty an ill Opinion of them; he provokes and incites Him by all his Arguments, to lay down his Mercy and Goodness, and Justice, and to fall into an offensive War against that Kingdom. He gives out, that the Nation of them (not this or that man) are Rebels and Traytors: And if it please the King to bring him back to the Sword (indeed he is fit for that, it is a violent weapon) he will root out the *Scottish* Nation, Branch and Root; some few excepted of those that had taken the Oath.

When he comes into *England*, he find that His Majesty, with great Wisdom, had pacified those Storms and Troubles that threatned us there: Yet he doth incense the King still to follow this to an Offensive War, and prevails; He plots to call a Parliament, but with an intention (if it furnished not his design) it should be broken, and he would set up other ways of force to raise Moneys of the Kingdom; and this fell out unhappily: For thus far his project took, the Parliament was broken; and broken at the very time when the subject was in debate and consideration, how to have yielded Supply to His Majesty.

But that he might break it, he falsly informs the King, That the Parliament had denied to Supply him; there is his Counsel, that the Parliament had forsaken the King; and now the King having tryed his People, might use all other ways for the procuring and raising of moneys; and the same day wherein that Parliament was unhappily Dissolved, he gives his further Counsel to His Majesty, (which because no man can put such a Spirit of Malice into the words besides himself, I shall take the boldness to read) That having tryed the Affections of his People, he was loose and absolved from all Rules of Government; and he was to do every thing that Power would admit. And that His Majesty had tryed all ways, and was refused, and should be acquitted both of God and man. And that His Majesty had an Army in *Ireland*, which he might employ to reduce this Kingdom. It is added in the printed Book (to reduce them to Obedience) I know not who Printed it, but the Charge is only (to reduce this Kingdom.)

And (*My Lords*) you may please to consider, what a sad time this man took to reflect upon these bad Councils, when our Hearts were swoln with Sorrow for that unhappy breach of the last Parliament. And what doth he advise the King? what positions offers he? That he was absolved from all Rules of Government. If there be no Rule of Government, (*My Lords*) where is the Rule of Obedience? for how shall the People know to obey, when there is no Rule to direct them what to obey? He tells the King he was refused, which was untrue; for he was not refused to the last breath we had in Parliament: but we spake in that point, how to supply the King, and to prefer it at that time, before the Complaints of our just Grievances.

But what doth he fall into? that which in another Article we charge him with, a Plot and Conspiracy betwixt him and Sir *George Ratcliffe* to bring in the *Irish* Army for our Confusion, to root out our Laws and Government; a pernicious Counsel. He says not you shall do it; but he that perswades it, doth as much as if in express terms he had counselled the acting of it. Doth he mean that we should be to his *Irish* Pattern; (for speaking of the *Irish* Army, consisting of Papists and his Adherents, he

he said, that he would make it a Pattern for all the Kingdoms;) did he mean to reduce us to the Pattern that he had placed in *Ireland*? Surely he meant to reduce us to a Chaos and Confusion. He would have us without all Rules of Government; and these be the means, wicked and cruel Councils, and the Cruelty of an Army inspired with his Spirit, and consisting of Papists, Enemies of our Religion: And what Mercy could we of this Religion expect from Popish Enemies with Swords in their hands? That cannot but strike all *English* Hearts with Horrour and Dread, that an *Irish* Army should be brought into *England* to reduce the Subjects of *England*. I hope we never were so far gone in any thing, as that we should need an Army to reduce us. I cannot but say here is the Counsel of *Haman*, when he would in one day cut off all the *Jewish* Nation, and have the King intend a Favour to him. The King propounds a question, What shall be done to the man whom the King will Honour? *Haman* thought in his heart, Whom will the King Honour but my self? And so my Lord of *Strafford* having raised this Army, it was set up by him; and if such a Counsel as this was entertained, into whose hands should it be put? (here were *Haman's* thoughts) who should have the Power of it, but he that hath inspired it, and since maintained it.

Truly (*My Lords*) it was a desperate Counsel; and methinks the Counsel of *Achitophel* might have been compared to it: for when he had stirred up the Rebellion of *Abshalom* against his Father, he perswades *Abshalom* to that which might breed an irreconcilable hatred between them. Yet a Father and a Son might be reconciled. But he that adheres to the Son in this case, might not so easily forgive. Therefore this Lord falls upon a Counsel which he thought would never be forgiven. A Counsel of irreconcilable difference, to subdue us by Force and Power; and takes away all possibility of Addressing our Complaints to the King, as he had done from those of *Ireland*; when he not only forestalls their Complaints, but by a Proclamation takes order, that none should come over too, without his Licence; which was in effect, that none should complain of his Oppression without his good liking.

Some violent Speeches he uses, suitable to these Counsels, That no good would be done upon the Aldermen, till they were hanged; That the *French* King employed Commissaries to look into mens Estates; which will be insisted upon in their proper place.

Next, he levied eight pence a day for maintenance of the Trained Soldiers, against the Will of the Country, which he said was done by the consent of the Lords of the great Council; which we know is untrue. And we shall prove it untrue in the other part, where he says, it was done freely, by consent of the Gentlemen of the Country: Most of them that did consent, were his own Friends, and Papists. But the Petition of the Country, (as to that part of it that concerns a Parliament) he rejected, because he would have no Parliament. And he prefers another in the name of the Country, and that he calls, The Petition of the Country.

And now I shall apply my self to the proofs; and shall take care to offer nothing, but what will fall out to be proved. And shall first apply my self to the first Article, concerning the Commission for the North parts; where an Arbitrary Power was thereby granted, as is used in the *Star-Chamber* and *Chancery*.

In the opening of it, first we shall produce the Commission of 8 Car. and that of 13 differs but little from it. We shall shew that these Clauses were procured by him to be inserted upon occasion of a Gentleman, Sir *Thomas Gore* being Fined in the Court of *Star-Chamber* there, and his being Arrested by a Warrant from my Lord *Wentworth* here in *London*. We do not go about to prove that he solicited for this Commission, but that he expressed his desire of it; and upon that it was granted.

We shall prove, that it was executed in this high manner, that when Prohibitions have been taken out, he hath punished the parties, some he hath threatned; Nay, Money hath been given to those that were Defendants in the Prohibition. And we shall offer this too, The Judge is dead before whom it was; but upon occasion of a Prohibition, he went to a Judge, a Reverend and Just man, Mr. Justice *Hutton*; what was said privately between them, we cannot tell; but we shall prove, that Mr. Justice *Hutton* complained with Tears in his Eyes, how that Lord used him about a Prohibition: And so we shall leave this Article with this. We shall not go about to prove Decrees, for which he might have Colour; but for these Clauses he could have no Colour, they never being in any Commission before.

T H E
First Article.

The Charge.

That the said Earl of Strafford the 21st day of March, in the Eighth year of His Majesties Reign, was President of the Kings Council in the Northern parts of England.

Article 1.

That the said Earl being President of the said Council, on the 21st of March, a Commission under the Great Seal of England, with certain Schedules of Instructions thereunto annexed, was directed to the said Earl, or others the Commissioners therein named; whereby, among other things, Power and Authority is limited to the said Earl, and others the Commissioners therein named, to hear and determine all Offences and Misdemeanours, Suits, Debates, Controversies and Demands, Causes, Things and Matters whatsoever, therein contained, and within certain Precincts in the said Northern parts therein specified, and in such manner as by the said Schedule is limited and appointed.

That amongst other things in the said Instructions, it is directed, That the said President, and others therein appointed, shall hear and determine, according to the Course of Proceedings in the Court of Star-Chamber, divers Offences, Deceits and Falsities therein mentioned, whether the same be provided for by Acts of Parliament, or not, so that the fines imposed, be not less than by the Act or Acts of Parliament provided against those Offences, is appointed.

That also, amongst other things in the said Instructions, it is directed, That the said President, and others therein appointed, have Power to Examine, Hear and Determine, according to the course of Proceedings in the Court of Chancery, all manner of Complaints for any matter within the said Precincts, as well concerning Lands, Tenements and Hereditaments, either freehold Customary, or Copyhold, as Leases, and other things therein mentioned; and to stay Proceedings in the Court of Common Law, by Injunction, or otherwise, by all ways and means, as is used in the Court of Chancery.

And although the former Presidents of the said Council had never put in Practice such Instructions, nor had they any such Instructions, yet the said Earl in the Month of May, in the said Eighth year, and divers years following, did put in Practice, Exercise and Use, and caused to be used and put in practice, the said Commission and Instructions; and did direct and exercise an exorbitant and unlawful Power and Jurisdiction over the Persons and Estates of His Majesties Subjects in those parts, and

Article 1.

and did Dis-inherit divers of His Majesties Subjects in those parts of their Inheritances, Sequestred their Possessions, and did Fine, Ransom, Punish, and Impison them, and caused them to be Fined, Ransomed, Punished and Impisoned, to their Ruine and Destruction; and namely, Sir Coniers Darcy, Sir John Bourcher, and divers others, against the Laws, and in Subversion of the same. And the said Commission and Instructions, were procured and issued by Advice of the said Earl.

And he the said Earl, to the intent that such illegal and unjust Power might be exercised with the greater Licence and Will, did Advise, Counsel, and Procure further directions, in and by the said Instructions to be given, that no Prohibition be granted at all, but in cases where the said Council shall exceed the limits of the said Instructions. And that if any Writ of Habeas Corpus be granted, the party be not discharged till the party perform the Decree and Order of the said Council.

And the said Earl in the 13th year of His Majesties Reign, did procure a new Commission to himself, and others therein appointed, with the said Instructions, and other unlawful Additions.

That the said Commission and Instructions, were procured by the Solicitation and Advice of the said Earl of Strafford.

Proofs touching the Commission for Government in the North, enlarged.

To the point of Star-Chamber Power.

THe Commission granted 21 Mar. 8 Car. was read, 19 Article, whereby my Lord as President, or in his absence the Vice-President, assisted, (*prout* in the Commission) are authorized to hear, end and determine, according to the Course of proceedings in the *Star-Chamber*, all and all manner of Forgeries, Extortions, &c. And to Fine, &c. So as the Fines imposed be not less than by the Acts of Parliament is provided, &c.

Manager.

Whence observe, That he would have power in Fining to go beyond, but not less than the Fines in the Act of Parliament.

To the point of Chancery Jurisdiction.

Article 23. was read, whereby Power is given by Injunction, to stay Proceedings in any Court of Common Law.

Article 28. was read, whereby Power is given to send the Sergeant at Armes, and Attach in any part of the Realm of *England*; and to bring before the Lord President, &c. any person departing the Jurisdiction of that Court, after Commission of Rebellion sued forth.

Article 29. whereby is granted, That no Prohibition be granted in the Court of *Westminster*, to stay Proceedings in that Court. But in cases where the Court of the President shall exceed the Kings Instructions; and if any *Habeas Corpus* shall be sued forth for not performing the Order of that Court, the party Committed, not to be discharged, so long as such Orders

Orders shall stand in force ; and if any Fine be thereupon estreated, The Treasurer and Barons of the Exchequer to discharge it.

Article 1.

Whence observe, That the not granting of Prohibitions, or *Habeas Corpus's*, and the discharging of the Fines estreated, are new.

Manager.

To the sending of Proces actually before these Clauses granted ; and to the Earl of Straffords procuring the Clause to be supplied, when he found the Defect.

John Gore Sworn ; and being interrogated how his Father was Arrested, and how long before this Commission ?

Answered, That Sir Thomas Gore his Father, was Arrested in London, by a Sergeant at Armes ; That his Father conceiving it to be out of the Instructions at Yorke, did Appeal to the Council-Table : That Mr. Mason argued for his Father, and made it appear, That the President and Council had no Instructions to take a man without the precincts of the Court. That my Lord of Strafford fell on his Knees, and besought the King, That if his Instructions might not be so good as to bring in a Delinquent that had affronted the Court, if by stepping over the water he should go beyond the precincts of it, he might leave that Service, and lay his Bones in his own Cottage.

Witness.

That his Father was Arrested in November, 1632. as he takes it, and was kept 18 Weeks before he was discharged.

Evers Gower Sworn, and Interrogated about the time of his Fathers Arrest :

Answered, That it was in November, 1632. and his Father kept in Prison 14 or 18 Weeks ; but referred to his Brothers Deposition for a more particular Answer.

Witness.

To the matter of Prohibitions ;

John Musgrave Sworn ; was examined, Whether he knew of any Prohibition sued forth in Vaux his Cause : And whether a Warrant were granted to Attach : What Threats my Lord of Strafford used to the party that sued it out, being after *Octavo Caroli*.

After some Exceptions taken to it by the Earl of Strafford, as not being within the Charge,

The Witness Answered,

That he knew of an English Suit between Musgrave and Vaux : That upon notice given by Musgrave, a Prohibition was procured ; Direction was given, that an Affidavit should be made of serving the Prohibition. That Affidavit being made, a Warrant was directed to the Pursuant, or his Deputy, to Arrest Vaux. On which, he was Arrested, and Rescued. That after Affidavit made of the Rescue, a further Warrant was sued forth for bringing in of the Rescuers from London ; which Warrant was now produced. That the Rescuers being thereupon brought to Yorke ; and having lain several days in Prison, an Information was Exhibited by Sir George Ratcliffe, then the Kings Attorney at Yorke, by relation of Francis Musgrave : To which they did Answer. And after, upon full hearing, That before the Censure, he the Deponent, in Michaelmas Term, before 1632. did come to London on behalf of Francis Musgrave, to move the Court

Witness.

Article i. Court of *Common-Pleas*, to have the Prohibition dissolved : And likewise *Vaux* did procure a Rule for a Prohibition in the Information Cause; which the Witness offered to shew under the Court Hand, That it was moved by Sir *Robert Heath*, that the difference might be referred to Mr. Justice *Hutton*, and Sir *Robert Heath*. That he the Deponent undertook for *Musgrave*, and *Vaux* did submit : That afterwards, by Sir *George Ratcliffe's* direction, thinking it not fit to refer the Cause, it concerning the Jurisdiction of the Court of *York*. My Lord President being acquainted with it, the Reference went not on that Term, but stayed till the Presidents pleasure was known; with which Mr. Justice *Hutton* was made acquainted. That in *December*, upon his this Deponents return to *York*; and upon hearing the Information Cause, *December 1632*. Sir *George Ratcliffe* did offer to the Court, (the Lord President being there) whether he might go on in the Information Cause; (for that there was a Reference between *Musgrave* and *Vaux*, to Justice *Hutton* and Sir *Robert Heath*) or whether the Reference might go on or no? That the Lord President thereupon answered, That a Rule for a Prohibition, was no Prohibition; but if there were one, he would not obey it: And whosoever brought a Prohibition there, he would lay him by the heels. And as he the Deponent remembered, he directed his Speech to the Register of the Court; and told him, there was a Letter from the King to that purpose: but that, he said, he could not very well remember. And as touching the Reference, my Lord said, It was a Cause that concerned the Jurisdiction of the Court of *York*; and no private man should end it: He would try the Jurisdiction of the Court upon it; and the next Term would go to *London*, and acquaint the Judges with it; and if they remanded the Cause back again, so; if not, he would Appeal to the King in it.

That after *Christmas*, in *Candlemas* Term, 1632. He the Deponent went to *London* with my Lord, and moved again for dissolving the Prohibition, and for Liberty to proceed. That again it was agreed between the Judges of that Court, and my Lord, to have a Treaty: And several Treaties they had, but could not agree. The effect of the Treaty was, That if a Trial could be directed at Law upon a fained Action, I should go to Law, reserving the Equity to the Court; if not, that the Judges would remand the Cause back again. But after they had several days met, and no Trial could be directed, nor any Action devised at Law to try it, my Lord thereupon said, He would give no further meeting, but would Appeal to the King; and the party should Petition: On which, a Petition was drawn, which the Deponent offered. And the Judge speaking something of *Vaux*, my Lord said, he should not be in *England*, but he would have his Body; or words to that purpose.

F. Thorpe Sworn; being interrogated touching some words he heard Mr. Justice *Hutton* speak touching these Prohibitions, and some other things in that point,

Witness.

He Answered, He would give the best account he could of what passed; being divers years since: That he was with Justice *Hutton* in his Study, and they had Conference together (as they had many times) touching that height that my Lord of *Strafford* was pleased to carry the business of *York-shire* with: And that amongst other things, my Lord was pleased to say, my Lord had been with him, and shewed himself very angry with him, because he had granted a Prohibition. And this is all he could remember; He took it to be seven years ago, and in the Cause that concerned

cerned *Vaux*; as he took it; and this was at *London*: And added, That the Judge spake with a great deal of Passion, to think things should be carried in that manner as they were, that the Judges should not have Liberty to grant Prohibitions: For the Judge said, that he had thus debated the business with my Lord, Why should you be angry for granting of Prohibitions? They in the *Kings-Bench* can grant Writs of Error to examine our Proceedings; and we think it no offence, and hold our selves as able to Judge, as they: And it is the Justice of the Law that requires it to be so; and therefore you must submit to us, as we must submit to them.

F. Thorpe being asked what he knew of my Lord of *Strafford's* distast against them that sued out, or solicited, or counselled Prohibitions, or *Habeas Corpus's*?

He first desired to be excused from saying any thing that concerned himself; but being commanded to speak,

He Answered, That he would speak nothing but the Truth, if he must do it, though he perish for it: And he professed, that he had not spoken in any place, to any person, what he was now to say.

That in the beginning of my Lord of *Strafford's* time, it fell to him, in his ordinary course of Practice, to move for a Prohibition; and on his motion some were obtained.

That he was informed by divers men, that my Lord of *Strafford* was much offended with him; and some spoke it to him by way of Threat, some others by way of Advice and Friendship.

That he should give over moving for Prohibitions, which he did not understand to be a fault, since the Justice of the Kingdom was, that they should be granted; and it continued a matter of a year after.

That then he took an occasion to go to my Lords House to *Gantropp*; and his Errand was, partly to present his humble Duty and Service to his Lordship; and in the second place, if he could have opportunity, and if his Lordship would please to speak with him, to give his Lordship satisfaction in any thing he had done in that particular; because it was conceived, he opposed the Jurisdiction of that Court.

That after he had the Favour to speak with his Lordship, (which was long first) He was pleased to say no otherwise than thus, I have nothing to say to you, you are one that oppose me: But at the present I have eased you of the Office of Justice of the Peace; so you need not trouble your self with that.

That he did humbly thank his Honour for it; for howsoever he meant it, he took it to be no dis-favour, but a Courtesie, he having been in three or four years, but not executing any Authority, it standing not with his occasions.

And his Lordship added, Hereafter you and I shall speak further of the business; That afterwards his Lordship met him in *London*, in the Inner *Star-Chamber*, he then attending on a motion day before the Lord Keeper, amongst others of his Rank.

That my Lord President was pleased to come behind his back, and lay his hand on his shoulder, and said, I Command you not to depart the Town. That the words were something strange to him; and not understanding well what his Lordship meant by it, he instantly went to his Lordship, and desired that he might know his mind, he not very well hearing him.

That his Lordship repeated the words again, I Command you not to depart the Town.

Article 1.

That for a matter of a Week, or such a thing, he did attend under this Command: And then applyed himself to his Lordship, by all Means and Friends that he could. He Petitioned three or four times; he is uncertain which: He made means, by Persons of Quality, to his Lordship, That his Lordship would tell him the place where he was to attend, or the Cause for what, or the Person before whom; but his Lordship was not pleased to give him any satisfaction: only thus much he received, That he was one that did oppose his Lordship, and he should attend. Seeing there was no Remedy, he made his Address to a Noble Friend present, and acquainted him with the business; who was pleased to take the matter so to heart, as to move it to his Lordship.

That then he conceived the fault he had committed, The not paying the Knighthood money in *York-shire*. And his the Deponents Answer was, he had offered it, but was not chargeable by Law; for he had not 40 l. a year three years before the Coronation, as the Writ did enjoin.

E. of Strafford.

He speaks now of that which is not in the Charge; which ought not to be.

Manager.

We desire he may proceed, leaving it to Your Lordships to sever that which is material, from that which is not material.

F. Thorpe proceeded, and said, He could not say he punished him for the Prohibition; but he conceived, all did follow because he moved sometimes for Prohibitions: And that he had opposed his Authority and Power in *York-shire*.

E. of Strafford.

I Appeal to Your Lordships Judgments, whether it be not out of the Charge; Mr. *Thorpe* could not search my heart to know the Ground of the Offence.

Manager.

The Charge against my Lord of *Strafford*, is not only the Executing of these Instructions; but also the exercising of an exorbitant and unlawful Power and Jurisdiction, over the Persons and Estates of His Majesties Subjects, To which, the matter offered by the Witnesses, is material.

Lord High Steward.

The Lord Steward, speaking to the Witness, said, Apply your self as much as you can, to the point in question.

F. Thorpe proceeded, and said, That he conceived the Question was asked him generally, What he could say concerning Prohibitions, or them that had to do with them.

That no man living hath less desire to speak of my Lord of *Strafford*, than he had; and if he had not been asked this Question on his Oath, and before that Presence, and on this Command, he should not have said it: For what he said now, he never had spoke before; and with what Sorrow he came now to speak it, he knew; and said, that he spake not this to any other purpose, but only, That these things which were done, were done on the occasion of the Prohibitions. For the matter of Knighting-money, though it were made the cause of staying him in *London*, yet, under favour, (he said) That was not, nor could be the Cause; For he had offered it below in the Country, only thus, That he was not Chargeable by Law, but very willing to pay it, if my Lord would have him pay it;

it; so he might comply with his Lordship, or serve any occasion wherein his Lordship was employed.

And therefore that of Knighting was the occasion taken, yet he conceived that was not the true occasion. And lastly, that after he had been kept 12 or 14 days under this Command, his Lordship was pleased (on that which passed between that noble Lord (my Friend) and his Lordship) to give him leave to go home, and then he paid the money.

We desire the Witness may not conceal any thing, but speak it; and being demanded accordingly.

F. Thorpe answered, There was another particular happened on him; and though another occasion was taken, part came from the said Root, but he desired to be pardoned in not speaking of it.

Being required to speak, and to set forth what time this was, and what that Noble mans name was, who, upon my Lord of Straffords motion, procured him liberty.

F. Thorpe answered, That he conceived the time to be about the Knighting-money business, and the Lords name was, My Lord Goring.

Your Lordships may observe this was long before the Commission in 8 Car. and some two years after my Lord of Strafford came to the Place.

Being Interrogated further, Whether he or his Clients have forbore to move in that Cause of Prohibitions out of fear of my Lord of Strafford.

He answered, For his own particular he hath forbore, and durst not adventure it, nor any that had to do with him in those parts, as he knew, durst move till of very late; For he knew very well the price of my Lord of Strafford's displeasure.

Being asked if he knew any thing of the Case of Leyton, about a Prohibition.

He answered, He knew nothing of it.

I humbly desire, with your Lordships leave, to interpose a Question.

We desire that our Witness might first be heard out, and we shall not interrupt my Lord of Strafford in asking what questions he pleases in his just defence.

Let the Witness proceed.

To your Lordships Order, and in all things, I shall pay Obedience, I desire nothing in the World but a clear understanding of the Truth in this business, and so I am sure every man doth that hears me; and without Offence, and with all Reverence, I humbly offer, That the Witnesses may stand apart from the Committee for the Commons, the Committee asking the Witnesses many questions, which I conceive, by your Lordships Rule, should be asked by your Lordships only; For which I crave pardon, if I have offended in moving of it, I standing for my Life, and which is dearer, my Honour, and my Children.

Article. 1.

Manager.

F. Thorpe a Witness.

Manager.

Witness.

E. of Strafford.

Manager.

Lord High Steward.

E. of Strafford.

Article I.

Lord High
Steward.

Manager.

F. Thorpe a
Witness.

Their Lordships Rule hath been kept, and things shall be carried clearly on all hands.

We desire the Witness may proceed to speak concerning his own Imprisonment; and the Lord Steward Interrogating him accordingly, he kept to the same Point,

F. Thorpe proceeds, saying, That he could give no other ground for it, though another occasion was taken, yet he conceived the true ground, because he was too busie in meddling with Prohibitions.

That the Pursivant attending the Council at *York*, came to his house, and carried him before the Lord President and Council, where he attended a day, and then had liberty to speak with my Lord; That his Lordship was pleased to tell him, there was an Accusation against him, but they that laid it were not come to Town, therefore he must attend; and that they were his betters, and therefore he had reason to attend: He desired to know what it was, but could not have that favour; but some eight days after (being in the mean time in the Pursivants Custody) he was brought to the Council-Table again, and his Lordship sitting at the upper end, commanded him to kneel, he coming as a Delinquent; which he did accordingly, bringing with him a spirit of submission, knowing very well his ruine depended on his opposition, and on his rising, his Lordship was offended, he stayed no longer kneeling.

Afterwards a Letter was read from some Gentlemen in the Country, wherein they had written, That I had spoken at the Sessions a little more than became me to the Court, in defence of a Client, on a Traverse to an Indictment. And what they had written (I confessed) was very true; for it was thus; upon the Traverse of an Indictment, the question being, Whether the bare Indictment were Evidence to the Petit Jury, I did say it was no Evidence, and I desired to Appeal to the Judges. My Lord President was pleased to say, He would teach me to know, there were other men for me to complain to, *viz.* The President and the Council. I told his Lordship, I was ready to complain to any where I might have Right: And I Appeal to the Kings learned Council, Whether it was not Law what I spoke. I was then put out, and direction sent, I must find Sureties, and make publick submission at the Sessions for saying these words: I did find Sureties, and when I went to Sir *W. Ellis* to enter the Recognizance, He told me, I am sorry, but I cannot help you, for my Lord of *Strafford* over-ruled us; and you are to be bound to the good Behaviour, and make submission at the Sessions: And he said further, That what he was enjoined, he did perform. And all this, I conceive, originally grew, for that I did oppose the Jurisdiction of the Court at *York*, and not for the Causes pretended. And this binding to my good Behaviour was eight or ten years ago.

And being further asked, Whether he knew of any other that had been oppressed with this Exorbitant Power, or no?

F. Thorpe answered, He had heard of many, but he was not present at their Commitment, nor saw their Orders, and can say nothing of his knowledge; only he knew Sir *Thomas Gore* was under Custody.

George Hayes a
Witness.

George Hayes was produced next, and interrogated, What he knew of Sir *Cenys Darcies* Fining.

I con-

Article 1.

I confels I was there, and gave consent to his Fining; but it was not by vertue of the said Commission, for it was before my time.

E. of Strafford.

The Manager did now sum up the Evidence, and my Lord of Strafford's Answer was expected.

I desire a little time to retire: And after some debating thereof betwixt his Lordship and the Committee, It was Resolved his Lordship should have some little space to rest, and peruse his Notes at the Bar, which the Manager alledged to be unusual in any Court of Justice in a proceeding of this Nature.

E. of Strafford.

My Lords, there is a great deal of difference betwixt the Case of a man that answers for a bloody, hainous, and known Treason, by the Statutes of the Realm, before the Lord Steward and his Peers, in an ordinary way of proceeding; and him that answers a mixt Charge, partly Misdemeanors, and partly (as apprehended) Treason. There is nothing in this that can be Treason, and when 1000 misdemeanors will not make one Felony, shall 28 Misdemeanors heighten it to a Treason? And in that Point, in due time, I shall desire my Council may express themselves, Whether any thing in this Charge (admit it all to be true) be Treason, that if they be but Misdemeanors, I should be admitted Council, and examine Witnesses by Commission. I had no leave to summon a Witness before Friday last, and the greatest part of my Proofs and Charge comes out of Ireland; and to be debarred from these, under pretence of Treason, I conceive to be, in this Case, a little severe. But I shall proceed to my Defence.

E. of Strafford.

And first, As for the Instructions which I am charged withall, being 21. March, 8 Car. they were not procured by me, I knew nothing of them.

E. of Straffords
Defence.

The Commission and Instructions to the President and Council of York, are of course renewed on the death of one of the Council of the Fee in Ordinary, and the putting in of a Counsellor at large, is only by Letter.

Sir Arthur Ingram, who was Secretary, going out, and Sir John Melton succeeding, these Instructions of 21 March 8 Car. were renew'd.

That in the Case of such Renewing, the Kings Council of the Fee, do, by the Secretary, offer the Kings learned Council such things as they conceive conducing to the clearing and bettering of the Kings Service in those parts: And it finally comes to the Lord Keeper or Lord Chancellor, and they agree it.

I protest that I gave no direction in these, nor do I conceive any thing offered, proves me to be the man that procured them.

As to the Execution of it, from the date of that Commission to this hour, I did never one Act, nor stayed a minute as President of the Council of York. The Commission being granted 21 March O^{ld}. Car. and I went towards Ireland in July following, which I can prove by my Servants, if they might be sworn. And before I be convinced of a Misdemeanor, I conceive they must be sworn: But that now I answer only to Treason.

If I were neither privy to the taking out of the Commission, nor any way employed in the executing of it, I Appeal unto your Lordships, and the Gentlemen of the House of Commons, Whether I can be charged as Criminal, as to this Commission, or any thing that proceeds from it.

As

Article 1.

As for the Sentence against Sir *Congers Darcy*, it was Just, and he complained not of it: Of which I have a Copy, and desire it may be read.

That from the first Institution of the Court of President and Council at *York*, That Court had both a *Star-Chamber* and *Chancery* Power; as will appear by all the Instructions before that time.

That if there be an Errour in a Judge, so that he give a Sentence otherwise than a man of better understanding conceives reason for, there is no cause it should be heightened to a Treason, to take from him his Life and Honour, and all he hath, meerly because he was not so wise a man as he might have been, nor so understanding as another: And if this be prest on Judges, I think few Judges will serve. And for my part, I had rather go to my Cottage, as the Witness saith, then serve on these Terms.

The Charge lays it to be done in *May*, 8 *Car.* and divers years following, and the Instructions came not in time till the 21st *Mar.* 8 *Car.* which I conceive to be a mistaking of the year.

That as to the Sentence of Sir *John Bourcher*, which is charged upon me, but not insisted upon by the Gentleman, I was no way acquainted with the beginning, proceeding, or ending of the Cause, being all that while in *Ireland*; so Your Lordships may observe with what uncertainty men may speak, that do inform in such Cases.

That of the Commission, the 13th of the King, with which I am likewise charged, as the Procurer of it, I had no more knowledge, than of that which was most foreign; being at that time in *Ireland*, and the Commission renewed of one of the Council in Fee.

I shall now descend to Proofs.

That the Commission 8 *Car.* was renewed upon Sir *John Meltons* coming to be Secretary, instead of Sir *Arthur Ingram*, The Committee admitted it.

To the Testimonies given by the Witnesses, I observe, That *John Gore*, the first Witness, speaks nothing to the renewing of the Commission, but to his Fathers Commitment; and that was in *November*, but what year, *Non liquet*. But this is not within my Charge, therefore I shall not Answer to that; Though if it were in Charge, I doubt not, but in that, and every thing else, I shall give an account of an honest and just man, not to say of a discreet, and a wise man.

That for the Testimony of *John Musgrave*, it contains nothing within my Charge: and I can say nothing to it, but by way of Divination. And he is but a single Witness; And therefore I conceive, shall hardly be able to convince any man of High Treason, hardly of a Trespass.

That what *John Musgrave* speaks of, is grounded on a question of the Jurisdiction of Courts; and one rule of our Law is, *Boni judicis est ampliare Jurisdictionem*. And why the enlarging of a Jurisdiction should be heightened to a Treason, I Appeal to Your Lordships Nobleness, Justice, and Honour, to consider; for I think there are none in place of Judicature, but they will desire to enlarge their Jurisdiction, as far as in Reason and Justice they may: And it is a chaste Ambition (if rightly placed) to have as much Power as may be, That there may be Power to do the more good in the place where a man lives.

For *F. Thorpe's* Testimony, I observe, That I have nothing to say to him of Exception; but that he speaks nothing to the purpose, nor to any thing in the Charge, I being Charged with the Execution of the Commission

million 8 and 13 of the King; and all he speaks of, is precedent in time: And what he says, is by hear-say from Mr. Justice *Hutton*, and Sir *William Ellis*. I do not remember my Lord *Gorings* speaking to me about Mr. *Thorpe*, it being 12, 13, or 14 years ago. I have put in my Answer, and if that be not Impeached by Testimony of Witnesses (as it is not) I conceive it ought to be allowed.

Article 1.

I desire to produce Witnesses, wherein I have Liberty; but not to examine on Oath.

And first, To the time of my going towards *Ireland*.

His Lordships Secretary being interrogated;

He Answered, That his Lordship went from *London* 8 July, 1633. towards *Ireland*, the 9th year of the King.

Mr. *Railton*, To the time of his Lordships going towards *Ireland*, said,

That 8 July, 1633. My Lord began his Journey into *Ireland*, being the Ninth year of the King.

The Committee for the Commons, admitted that he went over in July, 1633.

Manager.

To the time of my Lord of *Straffords* coming from *York*;

Mr. *Thomas Little* says, His Lordship came from *York* in January was eight years, and returned not to *York* till 1636.

To his Lordships doing any act as President of *York*, since the said New Commission of *Octavo Caroli*;

Mr. *Thomas Little* says, That since the date of that Commission, his Lordship never sat as President of the *North*, in any Cause whatsoever.

His Lordship offered to prove his being in *Ireland* when Sir *John Bourcher* was censured by the Vice-President and Council; But the Commons not pressing his Lordship in that matter, he said, If it be granted, I have done.

E. of Strafford.

To the Earl of *Straffords* being in *Ireland* when the Commission 8 Car. was renewed.

Mr. *Thomas Little* Answered, being questioned, My Lord was in *Ireland* at that time; he went over in 1636. having come over in *November* before; and was not in *England* again till 1639.

And so (My Lords) I conclude my Defence, That I am charged only with procuring and executing the Commission.

E. of Strafford.

And this Answer I humbly offer and submit.

John Gore speaks particularly of the occasion of enlarging the Commission, upon the Arresting of his Father.

The Managers Reply.

That my Lord of *Strafford* fell on his Knees, desiring from His Majesty an enlarging of his Power; else that he might go home: So going out of *England* in July after, the Commission answers to the Procurement that was before.

That

Article 1.

That which his Lordship hath answered to *F. Thorpe*, That the things by him complained of, were in the time before the Commission, may be used as an Argument, That he was privy to the Instructions.

We produce *J. Musgrave*, only to shew my Lords Violence about Prohibitions, before this Commission was procured; He growing so high, a little before, That he would lay them by the Heels that brought the Kings Writ; The Council were awed, that they durst not demand Justice: So that the procuring of it, suited most with his Design.

That his Witnesses had little contradicted what the Witnesses for the Commons had said.

That whereas it is said, the Charge is not Treason; if the Fact shall appear to their Lordships, satisfaction will in good time be given. That though this particular is not Treason, yet all the parts of it amount to the Subversion of the Laws of the Kingdom; That is prest as Treason, and this as an Evidence.

That for the second Commission, it follows as the other; If he procured the one, he is guilty as if he procured both, it being the same Power still.

The

THE Second Article.

The Charge.

That shortly after the obtaining of the said Commission, dated the 21st. of March, in the Eighth year of His Majesties Reign, (to wit) the last day of August then next following, he the said Earl (to bring His Majesties Liege People into a dislike of His Majesty, and of His Government, and to terrifie the Justices of the Peace from executing of the Laws: He the said Earl being then President, as aforesaid, and a Justice of Peace) did publicly, at the Assizes held for the County of York, in the City of York, in and upon the said last day of August, declare and publish before the People there attending for the Administration of Justice according to Law, and in the presence of the Justices sitting, That some of the Justices were all for Law, and nothing would please them but Law; but they should find, That the Kings little Finger should be heavier than the Loyns of the Law.

Article 2.

WE are come now to the second Article, touching words spoken of the King, That the Kings little Finger should be heavier than the Loyns of the Law.

Manager.

For that, we desire to produce Witnesses, and they will shew how my Lord of *Strafford* is mistaken in his Answer: Or if he says true, As he slanders the King in one sense, so he slanders the Law in another.

Witnesses produced.

William Long Sworn, and interrogated, What words he heard my Lord of *Strafford* speak concerning the comparison between the Kings little Finger, and the Loyns of the Law, On what occasion, Where, and at what time?

Answered, When *Sir Thomas Leyton* was Sheriff of *York-shire*, 1632. (as he takes it) My Lord of *Strafford* being there, he heard his Lordship say these words,

Witness.

That some, nothing would content but Law; but they should know, The Kings little Finger should be heavier than the Loyns of the Law: And this was spoken in the place where the Judges sate in *York-Castle*, at the Assizes that year.

The occasion he knew not, but it was publicly spoken; and as he thought, my Lord did not then sit on the Bench, but stood at the Bar.

G g

Sir

Article 2.

Sir Tho. Leyton
a Witness.

Sir *Thomas Leyton* was Sworn ; and being thick of hearing, the Manager was directed by my Lord Steward, to interrogate him to the effect afore-
said ;

Who Answered, My Lord said, Some would not be satisfied but by Law ; but they should have Law enough ; for they should find the Kings little Finger, to be heavier than the Loyns of the Law. His Lordship being on the Bench then with the Judges at that time, and abundance of the Country being there then at *Lammass Affizes*, at the Castle-Bench ; And he thinks it was 1632. or 1633. but he knew not the occasion.

Lord High
Steward.

Marmaduke Potter having been examined as a preparatory Witness, and since being deceased, it was desired his Deposition might be read.

The Lord Steward declared, That the Examinations of those preparatory Witnesses, should be read, in case any should be dead.

Tho. Harrison a
Witness.

To prove *Marmaduke Potter's* death, *Thomas Harrison* was Sworn : Being interrogated what he knew concerning the death of *Marmaduke Potter* :

Answered, That since his coming out of *York-shire*, he heard a report from his Neighbours, that *M.P.* is dead and buried, That he the Deponent, lived a Mile from the said *Marmaduke Potter* ; which is Ninescore and Ten Miles from this place ; but he heard no particular of the day of his burial.

E. of Straffords
Defence.

The Examination of *Marmaduke Potter*, Gent. taken January, 1640. to the 10th and 11th Inter. He saith,

That about eight years since, when Sir *Thomas Leyton* was Sheriff of *York-shire*, he heard the Earl of *Strafford* make a Speech publickly at the Bench at Summer-Affizes ; and he said then, That the Kings little Finger should be heavier than the Loyns of the Law.

I know not whether it were material for me to Answer this, or no ; but as the Charge is laid, it is impossible I should be guilty of the words : For it is laid to be the last of *August*, next following the 21st of *March*, in the Eighth year of His Majesties Reign ; which falls out to be when I was in *Ireland*.

But I desire not to stand on such Niceties, but that Truth may appear.

The words confessed in my Answer, are quite contrary, being, That the little Finger of the Law, was heavier than the Kings Loyns. And that I set forth in my Answer, and the occasion of them ; which these Witnesses do not, or else will not, remember. The occasion was this :

There came divers Levies in the year when Sir *Thomas Leyton* was Sheriff, for divers great sums of money for issues in the Knighting-business, on some that had compounded, and paid their money to me, the Receiver of that money then, and by me answered in the Exchequer ; yet these Issues came down, through some Errour above, and were levied with very great rigour by Sir *Thomas Leyton*.

When I came down, I spake with Sir *Thomas Leyton*, and shewed him how the men were injured ; and did desire him to return the money to them again, and I would see him discharged in the Exchequer, which he was contented to do. And then, to give satisfaction to the Country, I told them,

them, That that Commiffion was a Commiffion of Grace and Favour, and that their Compounding with the King, was an eafe to them, and much greater eafe than by a proceeding at Law would have fallen on them, the very firft Issues being three or four times more than they had compounded the whole for. And thereupon I applyed that Speech, That the little Finger of the Law was heavier than the Loyns of the King. For if I fhould then have fallen to threaten them, I had fpoken contrary to the end I had propofed, which was to incline them: And further, that not one of the Witneffes fpoke any thing to the occafion of the Speech.

Article 1.

That it is long fince, and was never yet complained of; and that man muft have a ftronger memory than I, that will undertake to fwear pofitively the very words fpoken feven or eight years ago: And, under favour, he ought to have better Ears than Sir *Thomas Leyton*, who appears to have fuch an infirmity in hearing, that he muft now be whoopt to at the Barr, before he can hear; and fure his fenfe of hearing is much decayed, elfe he could not have heard me fpeaking at that diftance to the place where the Sheriff fits in an open place, as far diftant, as from the Barr where I now ftand, to my Lord Steward, or very near.

Dr. *Duncombe* being asked, Whether he came accidentally to *York* that day? and what he heard the words repeated to be?

He Answered, He came from *Durham*, being fent for on other occafions; That he was at *York* in his Journey from *Durham*, the firft day of the Affizes; and being at Dinner at Dr. *Stanhopp*s, there came a Gent. Sir *Edward Stanhopp*, who called Dr. *Stanhopp* Uncle, from the Affizes. That the Doctor asked what news, fpecially concerning my Lord Prefidents Speech, he told them, that he preft hard to hear, and could tell fome paffages of it. Then they asked what they were, fays he, My Lord Prefident was fpeaking of this, That the way of the Prerogative was in fome particulars, eafier than the Common Law: And in his expreffion, he faid thefe words, The little Finger of the Common Law, is heavier than the Loyns of the King. This the faid Sir *Edward Stanhopp* told him, in the prefence of divers others, who he thinks, do remember the words were fo related; and that he had related them often fince, and never took it otherwife, till he faw it in the Charge; and there it was clear otherwife.

Witnefs.

And upon further question, at my Lord of *Strafford*s motion,

He Answered, That he never acquainted my Lord of *Strafford* that he could fay any thing in this, till *Sunday* night; and then talking with Sir *William Pennyman*, he told Sir *William* the ftory.

My Lord of *Strafford* defired Sir *William Pennyman* might be heard; and humbly acknowledged the Favour that had been done him by the Houfe of Commons, in giving liberty unto it upon his fuit.

E. of *Strafford*.

Sir *William Pennyman* being asked, whether he was prefent at the time when my Lord of *Strafford* fpoke the words of comparifon, between the Kings little Finger, and the Loyns of the Law; what was fpoke, and what was the occafion:

He Answered, That he was prefent at the Affizes at *York* at that time, and heard my Lord fpeak thefe words in another order and pofition, than is testified by thefe three Witneffes. And in truth (he faid) he could with he fpake now on his Oath, for he knew he fpake on much difadvantage; The occafion was this, A Rumour was caft up and down in the Country, That

Article 2.

my Lord of *Strafford* had received great sums of money concerning Knight-hood, which he had detained in his own hands, and not paid into the Exchequer; Hearing of this, his Lordship thought himself much wronged in it, and took occasion to vindicate himself; and there spoke of it, and told them, (to the best of his remembrance) there was some omission on the Secretaries part, or some of the Officers of the Exchequer. Hereupon my Lord took occasion to discourse of the Legality of Knight-hood-money; and told them, Gentlemen, you may see this is a Commission of Grace and Favour: for whereas you may compound with the King for a matter of 20 or 30 *l.* you have in two or three Terms, run in to great sums. He added, That he did not remember the proportion; but the Inference was, So that you may see, that the little Finger of the Law, is heavier than the Loyns of the King.

Manager.

One of the Managers desired he might be asked, by what means this was brought into his memory, and how long since:

He Answered, He had the retention of it in his memory before; but it was revived on occasion of these Articles, when they were exhibited.

Manager.

It is enough, and he did his Duty well, that being a Member of the House of Commons, he never informed the House of it.

E. of *Strafford*.

My Lords, I desire my Answer may be read; wherein, the occasion, and the words, are directly set forth, quite contrary to those in the Charge; and I protest, that I will take my Oath on it, That it was so.

And my humble request is, That no Witness I produce, may be prejudiced for any Testimony he shall give here, being with the Liberty and Allowance of both Houses. For if they should be discountenanced, nay, punished for it, I should think my self a very unhappy man indeed; and rather than I should prejudice any man in that kind, I profess, I would put my self on Gods mercy and goodness, and not make use of any Member of either House, (and my principal Witnesses must be of both Houses) rather than acquit my self by their prejudice; for I accompt it an unjust thing, to overthrow another to save my self.

Manager.

The Testimony of a Member of the House, hath great credit in the House, and they take not the least exception against Sir *William Pennyman*, for any thing he said before their Lordships, but wish he may speak with clearness and truth; but had he informed this particular himself to the House, he had done my Lord of *Strafford* more right, than by not informing, to let it come in Charge; and bring in his Testimony contrary to his Vote. When a Witness hears a thing in question, though it be not required of him, certainly he should vindicate the Reputation of his Friend, in contradicting it in season, but it is not so done; and certainly his silence to the House, was not well.

E. of *Strafford*.

My Lords, This concerns me nearly, This Gentleman, Sir *William Pennyman*, is my Noble Friend, and a Worthy Gentleman; and I would give him my Life on any occasion: but I know him to be a Person so full of Virtue and Nobleness, that he would not speak an untruth for all the world; perhaps he might not think fit to speak it in the House, men are left at their liberty.

The Charge came out in Print very lately, and whether Sir *William Pennyman* might know any thing of it, I leave it to those that better understand it. But with this humble Request to the noble and worthy Gentlemen of the Commons House, That they would please to regard it so, that no man may suffer by me, I protest I had rather suffer ten thousand times my self.

Article 2.

The business concerns the House of Commons, the Committee knows not how they will apprehend it; But it is only offered, That the Judgment of the House of Commons may not be prejudiced.

Manager.

The Lord Steward concluded this matter, That his Lordship is put upon the Trial of his Peers, who will give him all fair Respect. That his Lordship shall be denied no just way for his clearing, that he could say nothing in the Name of the Lords to this particular that's come out on the present, nor these Gentlemen in the name of the Commons, only he may be sure to find all that is fit: which my Lord of *Strafford* said he doubted not, and hoped their Lordship would pardon him for moving it, it concerning him very much.

Lord Steward.

As to the mistake in point of time, the Commons laying it to be after the Commission 21. March, 8 Reg. and prove it to be before the time, is not at all material. The offence is not that he spake it on that day, but that he spake the words.

Managers Reply.

The Exception to Sir *Thomas Leyton's* Testimony, that he had need to have better Ears; he is a Gentleman of worth, his Deposition is an Oath, and he knew best what he heard; the truth is, he stood within little distance of my Lord when he spake the words, and hath not been deaf above two months, and two other Witnesses concur fully with him.

For Doctor *Duncombe*, whether he be the man that laid Aspersions in the North on some Noble Lords, I know not; but his Testimony only is, that he heard so from one that spake it at the Table, not upon Oath, and not knowing what use would be made of it. And another Witness shall be produced, that will speak to the occasion, and that it was not the matter of Knighting-money.

Sir *Thomas Leyton* being asked how long he hath had this Infirmary in his hearing.

Answered, That he got a great Cold since he came to Town, and had this Imperfection since *Christmas*, and had his hearing well before.

Being asked how far he sate from my Lord of *Strafford*.

He Answered, Four yards off.

My Lord of *Strafford* desired it might be asked the Witness, Whether he sate on the Seat where the Sheriff uses to sit, he answered Affirmatively. His Lordship excepted against his Testimony, himself sitting where the President uses to sit, betwixt my Lord Chief Baron and Mr. Justice *Vernon*: And he Appealed to my Lord Chief Baron, Whether the Presidents Seat and the Sheriffs Seat, be not as far distant, very near as far, as from his Lordships then station to the Lord Steward.

But the Committee observed it not to be material, that there should be any Geometrical measure, but be three, four, five, six or seven yards off.

Here the Committee offered other Witnesses, but my Lord of *Strafford* desired their Lordships Judgment, Whether they should not bring all together, which the Lord Steward declared they might as to this Point.

Sir *David Fowles* being produced, was excepted against.

My

Article 2.

E. of Strafford.

My Lords, He is no competent Witnesse, he lying in the *Fleet*, on a Sentence in the Star-Chamber at my Suit, being fined for divers things he had said, which concerned my self, which depended on this in question, and conducing to it.

Manager.

He comes not at his own Request or Suit, but in a Suit that concerns His Majesty and the Commonwealth, and might offer the Presidents own Rule in the Case, but that the Law speaks for him; that a Witness ought to be heard in this Cause, though there have been particular ill affections between them, and your Lordships well know how to compare him with other Witnesses, and to value him accordingly.

Lord High Steward.

This hath been Resolved in the Case of Sir *Pierce Crosby*, that he should be sworn, and then value his Testimony, as the Lords shall see Cause, and this may be put into the same way.

Sir *David Fowles* being sworn, the Lord Steward put them in mind of the former Caution, that their Lordships would judge the value of his Testimony, the Committee not admitting what was excepted against him, he being not to obtain any thing for himself, nor his own Interest concerned, but produced for the King and Commonwealth, and therefore an indifferent Witness in the Case.

And then being Interrogated, touching the words of Comparison between the King's little Finger and the Loins of the Law, whether he heard them, and the occasion.

Sir David Fowles a Witness.

Sir *David Fowles* answered, He heard him say the very same words, That there were some for Law, and nothing but Law; but the King's little Finger should be heavier on them than the Loins of the Law. The occasion he cannot well remember; but there was some discontent taken by my Lord against him he being desired by a Messenger to levy Mony to mend a Bridge, he told the Messenger, He could not well do it of himself, for there was a Statute, as he took it 24 H. 8. that appoints four Commissioners to be at the doing of such Service, and he being but One, durst not undertake to do it: Besides, he said, He must see an Order or Warrant from the Sessions, else he could not do it, and none was shewed. Some other Exceptions he took to the unlawfulness of the business, and the Messenger reported this to my Lord, and that he conceived was the cause my Lord broke out so violently against him.

But being Interrogated on what occasion the words in question were spoken.

He answered, Before my Lord went to *Ireland*, he made a Speech to the whole County, and desired them to go on in their Service; and so brake out, Some are all for Law, but they shall find the Kings little Finger heavier on them than the Loins of the Law. And this is all he can remember.

Sir *William Ingram* sworn and examined, touching his knowledge of these words.

Answered, That he was on the Bench at that time, Sir *Thomas Leyton* was Sheriff, and he heard my Lord speak these words; Some of you are all for Law, but you shall find that the King's little Finger is heavier than the Loins of the Law, but he doth not remember the occasion.

The

Article 3.
E. of Strafford.

The main point I must insist on is, That the very words, if they had been spoken by me, as they are laid (concerning which, I call God to witness, I have spoken the truth, and the occasion.) It is no Treason within the Statute. And that being a point of Law, I crave leave to reserve myself according to your Lordships Order, that my Counsel, in time fitting and proper, may speak as concerning that in point of Law.

We shall close this Article, the last thing mentioned by his Lordship was spoken to before; as to the words, we had five Witnesses express in the Point, and therefore shall expect your Lordships Judgment in that. And so the Court was adjourned.

Manager:

The Fourth day.

Thursday, March 25. 1641.

T H E Third Article.

The Charge.

That the Realm of Ireland having been, time out of mind, annexed to the Imperial Crown of this His Majesties Realm of England, and governed by the same Laws: The said Earl being Lord Deputy of that Realm, to bring His Majesties Liege-Subjects of that Kingdom likewise into dislike of His Majesties Government, and intending the Subversion of the Fundamental Laws, and settled Government of that Realm, and the destruction of His Majesties Liege-people there; did upon the 30th day of September, in the Ninth Year of His now Majesties Reign, in the City of Dublin (the chief City of that Realm, where His Majesties Privy-Council, and Courts of Justice do ordinarily reside, and whither the Nobility and Gentry of that Realm do usually resort for Justice,) in a publick Speech, before divers of the Nobility and Gentry of that Kingdom, and before the Mayor, Aldermen, and Recorder, and many Citizens of Dublin, and other His Majesties Liege-people, declare and publish, That Ireland was a Conquered Nation, and that the King might do with them what he pleased: And speaking of the Charters

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Charters of former Kings of England made to that City: He further then said, That their Charters were nothing worth, and did bind the King no further than he pleased.

E. of Strafford.

I Humbly move your Lordship, That since diverse things were spoken by the Witnesses Yesterday, which I conceiving not material as to the Charge, forbore to answer to them, whereby I understand I have received some prejudice; therefore I desire I may now give satisfaction therein, being well able to do it.

Manager.

We hope your Lordships remember your own Order. We desire he may not have that allowed him to day, which was not granted him Yesterday.

The Evidence having been given for His Majesty, my Lord of *Strafford* having answered, and the Commons Replied: Touching which the Lord Steward declared, that the due Course had been followed; The Evidence being given for the King, my Lord having Answered, and a Reply made.

E. of Strafford.

My Lord, this is a Court of Honour, which is a Rule to it self, and no other Court is a Rule to it; and therefore if any thing were omitted one day, through want of memory, your Lordships may in your Nobleness allow another. Your Lordships being your own Judges and Rule, and most fit it should be so. I do therefore beseech your Lordships, that I may have liberty to offer new matter formerly omitted, else I shall be on great disadvantage, being to answer on a suddain, and had no time till *Friday* last to bring in Witnesses, and many perhaps may come up before my Trial ends.

Manager.

We desire in the Name of the Commons of *England*, we may proceed according to the Rule propounded, that his Lordship may not invert the course on pretence of new matter, for then it will be impossible for us to make good the Charge: (Which was accordingly Resolved) adding further, that there hath been ostentation of more Evidence, We desire it may make no Impression with your Lordships.

Manager.

We shall open the Third Article, containing very seditious words, spoken by my Lord of *Strafford*, in a publick Assembly, to the Kings Subjects, That *Ireland* is a Conquer'd Nation, That the King may do with them what he pleaseth: And speaking of the Charters of *Dublin*, He said, The Charters are nothing worth, and binding the King no farther than he pleases.

E. of Strafford.

I humbly desire, *My Lords*, that the Witnesses may stand in another Room from the Committee, it being not usual in other Courts, though I dare not offer any Court to be a Rule to this, and that your Lordship will direct the question.

Manager.

We have been sensible his Lordship hath been large in his Imputations. We shall behave our selves as becomes us in duty; we speak nothing to the Witnesses, but what any man may hear, and we must tell them what they must speak to, and less we cannot do.

I am

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E. of Strafford.

I am the loatheft man in the World to ſpeak any thing that may give offence in general or particular; neither did I charge any, only deſired that they might ſtand clear, and that the queſtion might come immediately to them from your Lordſhip.

Robert Kennyday produced and ſworn.

I humbly offer to your Lordſhips, That this Witneſs hath been queſtioned for many Miſdemeanors, and extortion in execution of his Place, as Remembrancer of the Exchequer, and for this was ſentenced; and that he knew he wiſhed his Lordſhip no great good; and left it to their Lordſhips, Whether he be a fit Witneſs, adding it to be his Miſfortune, That all that have ſuffered under the Kings Juſtice in his Miniſtry, are ready to be Witneſſes againſt him.

E. of Strafford.

My Lords, if he be guilty of Extortion, it follows not that he is therefore guilty of Perjury, neither doth any thing ſtand proved: But if he hath taken a ſum of Money, that makes him not to be believed when he gives Teſtimony.

Manager.

Robert Kennyday being examined what words my Lord of Strafford ſpoke in Dublin, of Ireland, Whether it was a Conquer'd Nation, and what he ſaid of the Charters of Dublin, and when.

Robert Kennyday a Witneſs.

He Answered, That 30. of September, 1633. he was the Kings Remembrancer in Ireland, and that day the new Mayor of Dublin was preſented to my Lord. The Recorder of the City making a Speech, touching the Preſentment of the Mayor, cited many of the Favors and Graces of the Kings and Queens of England, and, among the reſt, one Charter, wherein he alledged was contained; That no Lieutenant, Deputy, or Governor for the time being, or any Juſtice or Juſtices could aſſeſs, or lay any ſouldiers on the City of Dublin, without their conſent. That after the Recorder had made an end of Speaking, my Lord Lieutenant was pleaſed to Answer him in many Particulars: Among the reſt, he told them, You are a Conquer'd Nation, and the King may do to you what he pleaſes, and for your antiquated Charters, they bind nothing farther then pleaſes Him.

The Witneſs added ſome things, to take off the Aſperſions caſt on him by his Lordſhip, ſaying, He was never brought to Censure.

Being asked on my Lord of Strafford's Motion, Whether he ſaid they were not void by miſuſage, or the like.

He answered, No truly, Not a word that he heard.

Richard Earl of Corke produced and ſworn.

I muſt profeſs, My Lords, my ſorrow and unwillingneſs to ſpeak my Exceptions to the Earl of Cork, as conceiving him no competent Witneſs, in reſpect of an Information exhibited againſt him in the Caſtle-Chamber, by the King's Attorney there, which I deſire may be read, and is, I will not ſay in all the points of it, but ſo far acknowledged, that he confeſſes himſelf, under his Hand and Seal, to be in the mercy of the King, and deſires he may be made the Object of his Majeſties Compaſſion, not of His Juſtice. And when your Lordſhips ſhall ſee the nature of it, I Appeal to your Lordſhips, Whether my Lord of Cork ſhall be admitted as a Witneſs againſt me, eſpecially he being a little diſpleaſed, and I am ſorry for it;

E. of Strafford.

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for something done in the Cause, he giving 15000 l. for a Composition which the King had.

Manager.

There are two grounds of my Lord of *Strafford's* Exception to the Earl of *Corke's* Testimony, as I conceive. First, His Censure, or questioning upon the Information against him in the *Castle-Chamber*, which we have heard, to be much of the nature of the *Star-Chamber* here: And that part we suppose, was cleared by Your Lordships wisdom yesterday; That not a Censure, much less an Information in the *Star-Chamber*, should be a fit Exception against a Witness. The other part is, the ill will which my Lord of *Corke*, may bear my Lord of *Strafford* on that occasion. Truly, (*My Lords*) if ill will, and offence against my Lord of *Strafford* should be an exception and prejudice to a Witness, I am afraid there will be few in the three Kingdoms, whose Testimonials will not be prejudiced. But this I humbly offer to Your Lordships likewise, My Lord of *Corke* is a Privy Councillor to His Majesty, and made a Privy Councillor since by His Majesty; and certainly it is not seemly, to have that Reproach cast on such a Person, That for a Prosecution in the *Star-Chamber*, he should be made an uncompetent Witness.

Lord *Corke* a Witness.

The reading of the Information being hereupon denied, My Lord of *Corke* was asked, What words he heard my Lord of *Strafford* speak, touching *Ireland* being a Conquered Nation, and that the Charters of it were of no value, further then it pleased the King to make them.

His Lordship answered, And first desired leave to speak a word, hoping he should do no wrong to any man: That when he had obtained my Lords Licence, under the Great Seal, to come over hither, he came with as great a Resolution, never to complain of any sufferings he had, or to Petition against him, as any man did, and left all his Papers and Writings behind him, that he might have nothing to move him against my Lord of *Strafford*, but to do him all the service he could.

To the question, his Lordship said, That all he can say, is this, that he was present that day the Mayor of *Dublin* was presented to my Lord Deputy that then was, and the Recorder set forth the Great Charters they had from the several Kings of *England*; and fell on that matter of placing Soldiers in *Dublin*, without their consent; That my Lords Answer was, You must understand, Mr. Recorder, *Ireland* is a conquered Nation, and the King may give them what Laws he pleases. And then going forward with the Charters, he said, They be old Antiquated Charters, and no further good, than the King is pleased to make them: To that sense (he said) he is sure.

Manager.

We desire to observe to Your Lordships, That this time, was not the only time; he spoke the very words in effect, to the whole Kingdom afterwards, in Parliament.

Lord *Gorminstone* a Witness.

The Lord *Gorminstone* produced and Sworn: Being asked whether he heard my Lord of *Strafford* speak words to the effect as aforesaid, That *Ireland* was a conquered Nation, &c.

His Lordship Answered, That he remembers, that in the 10th year of the Kings Reign, 1634. on occasion of a Petition presented to my Lord Lieutenant, in behalf of the Country (as far as his remembrance leads him) from the House of Commons, desiring the benefit of some Graces

His

His Majesty had been pleased to confer on them, and he in the open Parliament, sitting under the Cloth of State, in presence of both Houses, told them, *Ireland* was a conquered Nation, and they must expect Laws as from a Conquerour : And the Instructions granted from His Majesty for settling the Government of that Kingdom, were procured from a company of narrow-hearted Commissioners.

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Being asked on my Lord of *Strafford's* motion, when these words were spoken, whether the first day of the Parliament, or at any other time :

His Lordship answered, That to his best remembrance, it was not the first day of the Parliament.

My Lord of *Strafford* saying it was at the opening of the Parliament, and the second day ; my Lord *Gorminstone* being further asked about the time :

His Lordship answered, He knew not whether it were the second day, or another day, but the particular words he took notice of ; and it was in presence of both Houses of Parliament, the Speaker standing at the Barr.

The Lord *Killmallock* produced, and Sworn ; and interrogated touching the same words.

His Lordship answered, That he was a Member of the Commons House, the 10th and 11th of the King, and the House of Commons Petitioned the then Lord Deputy, the Earl of *Strafford*, for the gaining of the Act of Limitations, for the confirming of their Estates, amongst other Graces granted to the Agents for that Kingdom, in the fourth year of the King. These Graces he answered to in writing ; and on the second or third day after, came into the House of Lords, and there sent for the Commons ; and in his Speech (amongst other things, I well remember, and to my grief, and to the grief of that Kingdom) he uttered these words, That that Kingdom was a conquered Nation, (the words as he remembred) and therefore they must expect Laws as from a Conquerour ; adding further, that the Book of Instructions, established in King *James* his Reign, for the orderly Government of the Courts of Justice in that Kingdom, were Instructions contrived, and procured by a Company of narrow-hearted Commissioners, who knew not what belonged to Government.

Lord *Killmallock* a Witness.

Sir *Pierce Crosby* being asked touching the same words,

Answered, That he very well remembred the words, as they had been spoken by the Noblemen that had been examined before him ; My Lord of *Strafford*, then Lord Deputy of *Ireland*, in the hearing of both Houses, said, That *Ireland* was a conquered Nation, and that the Conquerour should give the Law. He added further, that the Book of Instructions for the Government of that Kingdom, was drawn up, or procured, by the means of some narrow-hearted Commissioners, meaning those Commissioners that were employed by Commission from the King out of the House of Commons, being a select Committee, whereof there was one that is now a Noble Member of this House, that sits on the Earls Bench : And that he hath heard many of both Houses, repeat the same words as spoken by him.

Sir *Pierce Crosby* a Witness.

And so the Commons concluded the Article, expecting my Lord of *Strafford's* Answer.

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E. of Strafford.

After a quarter of an hours respite, my Lord of *Strafford* began his Defence as followeth :

First, I desire to open two points set forth in my Answer, which under favour, I must stand to, as that by which I must stand or fall. First, That the Kingdom of *Ireland*, (as I conceive) is governed by Customs and Statutes, and Execution of Martial Law, and Proceedings at Council-Board, in a different manner from the Laws of *England*. Secondly, That touching the Charters, I said, these Charters were void, and nothing worth, and did not bind the King further than he pleased ; both which I hope to make good.

The other business, that comes in *De novo*, is no part of my Charge, and therefore I hope will not be laid to my Charge.

I observe in the beginning of this part of the Charge that concerns *Ireland*, That the Governours for the Crown of *England*, that have been in *Ireland*, in all Ages, almost, have had these misfortunes, That the Native Subjects of that Country have not been propitious towards them. I instance in the case of Sir *Jo. Perott*, who on Testimonies here, was Attainted of Treason in a Legal ordinary way of proceeding, whereupon he lost his Estate, though not his Life ; and afterwards it was confest, there was little truth in all that Accusation.

Next, my Lord of *Faulkland*, against whom, many of the Witnesses that I think will come against me, informed ; as Sir *Pierce Crosby* for one, my Lord *Mountnorris* for another, and divers others ; who had so prejudicated me when I went into *Ireland*, in their Opinion, by the generality of their Charge, that I was a little distrustful whether it was not so : And thus much I have spoken once before His Majesty at the Council-Board, on another occasion, and now speak it to Your Lordships, to the Honour of that Person, that is now with God, my Lord of *Faulkland*, notwithstanding all the heavy cries that were against him, and the wrongs and injuries laid to his Charge, I had the fortune to have all the Examinations whereupon they proceeded, and looked over them all ; and now I protest, and call God to witness, not any way as making to me, I found the said Lord to have proceeded as Honourably, Justly, and Nobly, to his understanding, as any man could do ; and yet was decryed as much as any man could be. And so I beseech Your Lordships to consider me the Kings Servant ; and that in the Administration of the Commands and Justice intrusted with me, I had occasion to give offence to many ; and that it hath been the ill fortune of those that have been Governours there, when they have left the Government, not to be so well reported as otherwise they might be.

Besides, There is nothing in this Charge can possibly amount to Treason, admit all to be as it is laid, though perhaps to a Misdemeanour.

That if it be no Treason, it will fall to be but Misdemeanour ; and then I conceive, it stands with the Justice and Practice of this Court, to allow Council and Witnesses, which I am debarred from, by the involving me under the general Charge of Treason ; and having no further time to prepare, then since *Friday* last.

That though before, I durst not say Your Lordships were bound by Rules of any Judicature, but stood to Your own Honour and Nobleness, and were a Rule to Your selves, (and herein I take Your Lordships to witness) yet since the Gentlemen at the Barr, have prest the rules of other Courts, I desire leave to offer, That in all ordinary Courts of Judicature that ever I heard of, where the Criminal party doth Answer, and

and that Answer is not replied to, nor he admitted to make his proof, the Answer of the party is taken and confest; from which universal Rule of Justice, no man can shew him a transgression: And therefore, since I cannot be admitted my proofs, it being impossible to fetch Witnesses out of *Ireland* since *Friday* last, my Answer, I conceive, ought to be admitted, and the Charge taken as I confest it, not as it is on proof.

Saving to my self, that I said I would go on to give the best Answer I could, on a suddain, professing, That if I had had time, I am confident, through the mercy and goodness of God, and the Innocency of my own heart, I should be able to clear my self of Treason (the greatest Crime between man and man) towards His Majesty, and towards his People, (my heart being innocent of it; and never having suggestion or thought, but for the Greatness and Honour of His Majesty, and the Prosperity and blessed Estate of His People, all the days of my life; and ever desiring the best things, and never satisfied I had done enough, but did always desire to do better) but also of all other foul Crimes of Injustice or Oppression: Errours I may have many; perhaps my Tongue hath been too free, my Heart perhaps, hath lain too near my Tongue; but God forbid every word should rise up in Judgment against me. If every word that's spoken amiss should be observ'd, who is able to endure it; for words spoken, ten, twelve, eight or nine years ago, to be brought in Judgment of me, is a very heavy Case; and I beseech your Lordships to turn the Case inward, and to tell me if it be not a hard Case to be put upon such an Examination.

I shall observe further, that words ought to be charged within a certain time by the Proviso in the Stat. in *E. 6.* time, they must be brought in question within 30 days as I take it, which Proviso stands good in Law; but I go now into a Learning that God knows I have little skill of; to this I desire my Councel may in due time be heard, to open and Plead. In the mean time I desire to say, that if popular actions must be concluded within a year or two at the most, sure words should be questioned within a less time.

I shall proceed to maintain the truth of my Answer, That *Ireland* is not governed by the same Laws that *England* is; and for that I shall read a few words in my Lord Cooks Learning (which God knows I understand not) it is in *Calvins* Case; where the words are, *So as now the Laws of England, became the proper Laws of Ireland.* And therefore because they have Parliaments holden there, whereat they have made divers particular Laws, as it appears in the 20 *H. 6. 8.* and 20. and in *Ed. Dyer* 360. And for that they retain to this day divers of the ancient Customs, the Book of 20 *H. 6.* holds, That *Ireland* is governed by Laws and Customs separate and divers from the Laws of *England.*

Therefore in all things belonging to my Charge that came out of *Ireland*, I hope Your Lordships will take along with you the consideration of the Customs and Practices of that Kingdom, and not judge me according to that which hath been the Custom and Practice of the Kingdom of *England.*

In the second place, I come to the words of *Ireland* being a conquered Nation; The words laid in the Charge being, that I should say, That *Ireland* was a conquered Nation, and the King might do with them what he pleased.

And first, I should do extreemly ill to the Honour of the *English* Nation, and to the memory of divers of Your Lordships Noble Ancestors, if I should

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I should not both say and think, that *Ireland* is a conquered Nation; when here's mention made in the Laws, and in the Acts of State, of *English* Rebels, and *Irish* Enemies, certainly there is something in that; for till the Kings of *England* gave them the advantage and benefit of the Laws of *England*, it is well known, they were held *Irish* Enemies, and so termed and stiled in all the Records one shall meet withall in these times. And that it was a conquered Nation, I have very good Authority in the Statute made 11 *Eliz.* at the Attainder of that famous Rebel *Shan Oneale*.

In one part of which it is said,

That all the Clergy of the Realm assembled in *Armagh*, at the time of the Conquest, &c. See the Statute.

Is it then so much for me to say what's in the Act? and is it not for the Honour of the *English* Nation to say it? and it must be said to the Worlds end, for 'tis a truth. And therefore there is no cause it should be taken so hainously, or heard with so much displeasure; and if I displease for telling the truth, I cannot help it: He reads another part of it, *viz.*

And therefore it is to be understood, that King Hen. 2. the first Conqueror of this Realm, &c.

And so it hath been acknowledged in all stories and times, and many an *English* man hath spent his blood in it, whose Posterity will be ashamed to view it, other than as a conquered Kingdom.

Nay, I believe many Noble Persons are yet living, that have bled for it, and will take it ill, if it be termed less than a Conquest, in them who lived in those famous times, and spent their blood in Obedience to their Sovereigns Command.

So that by these words candidly and rightly taken, no manner of ill could come, being spoken, not with any sharpness or upbraiding, but meerly to let them see, That being in that Condition, they were infinitely bound to the Kings of *England*, who were pleased to communicate to them the Laws of their own Kingdom: And so far were they from being taken ill, that no man at that time took offence at them.

For the words, The King might do with them what he pleased, let them relate to the Conquest, and there is no offence in them; for the Conqueror might give them what Laws he pleased, and yet nevertheless, hath been so gracious and good, as to give them the Laws of his own People: Give me that understanding of the words, and then where is the Crime? how can it be brought in Judgment against me in it self, or be aggravated to High Treason.

I acknowledge I did speak to the Recorder of *Dublin*, yet some things I am put in mind of, which I am forced to deny with a great asseveration, That I do not remember the words, nay, I am sure I never spake them, let all the world, and a cloud of Witnesses, say the contrary, when I know in my own heart I did not speak them; though I offer not this to Your Lordships, to convince your Judgments: And on the other side, there is nothing that is true, but I will acknowledge it with all Ingenuity in the world, on the Testimony of any one single Witness.

I desire that Mr. *Slingsby*, his Servant, might be asked, whether he was not present when I spake these words; and whether then any offence was taken at me, in respect of the high manner of my speaking; or whether they were not rather extreamly well satisfied.

Now if Your Lordships take words in pieces, and not altogether, any man living may be convinced; but taking my words altogether, though something might be thought harsh, yet something gave abundant satisfaction.

I am

I am upon a mighty prejudice, in being denied to have my Witnesses examined upon Oath in these things that are not Treason. But they be persons of good credit, and I trust your Lordships will believe them, as much as if they spake on Oath, since I think none of them would say a word to your Lordships, which they would not swear.

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Mr. Slingsby being asked, Whether he was present when my Lord of Strafford spake to the Recorder of Dublin, what he said, and what acceptance it received.

Mr. Slingsby a Witness.

He Answered, He was then present, being on the occasion of presenting Sir Robert Dixon, the Mayor of Dublin; that he cannot remember the particular words, nor deliver them to their Lordships, as they were spoken by the Lord-Lieutenant: But he remembers particularly the scope of the Discourse was to ingratiate His Majesties present Government to them; That the words were well accepted by several persons whom he spake with, and took that Effect, that his Lordship was thereupon invited to the Mayors House, where divers of the City Congratulated his coming to them.

I shall now proceed to the second part of the words, That their Charters were nothing worth, and they bind the King no farther than he pleases; and I conceive I may say so still. If their Charters be nothing worth, they do not bind the King, but he may do with them what he pleases. In that, I desire your Lordships to call to mind what my Lord of Corke said, That Ireland was a Conquer'd Nation, and the King might give them what Laws he pleased, and that the Charters were Antiquated, and no farther good, than it pleased His Majesty to make them. It is likely (I confess) I might say so, and yet not say amiss; for it is most evident and clear, their Charters are void in point of Law, and therefore it is in the King's good will and pleasure, Whether he will make them good or no. And that they were void, the King's Council informed me so; that they were questioned at Council-Board upon it, for divers unlawful Exactions they took, under colour of Charters, for divers by-Laws that they had made, against Law, by those Charters, for divers neglects of Duties that they ought to do by those Charters; and generally, for not performing the trust reposed in them, by those Charters, with that Integrity and Care they ought to do. And for the truth of it, that many Complaints were made against the Mayor and Aldermen at that Board, for neglecting their Duty: I dare Appeal to my Lord of Corke. I adding this, That the greatest part of the Aldermen were Recusants, and would never be brought to obey the Order of the Board; but stood on their Charters, and would be Masters; and by that means great Disorders continued.

E. of Strafford.

And to prove that upon Examination, they appeared to be void in Law. I desire Sir George Ratcliffe may be admitted to speak on what Grounds those Charters were called in, and are now (as I think) deposited with the Clerk of the Council.

Sir George Ratcliffe standing charged with High Treason, by the Commons of England, before your Lordships, and of a Conspiracy with my Lord of Strafford; and whether it be fit to hear one charged with High-Treason, to clear another so charged, we Appeal to your Lordships.

Manager.

That

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E. of Strafford.

That Sir George Ratcliffe is charged to be a Conspirator with me indeed, and, in truth, I must confess Sir George Ratcliffe and my self (under favour) are equally guilty of Treason, and I hope we shall both justifie our selves; but I know so much of him, that I am not ashamed to say, That I think that Sir George Ratcliffe is my Friend, and I wish him well, and so I think will all other men (I trust in God) when they hear him. But I conceive Sir George Ratcliffe might be heard in these Points; if he be examined as a Witness against me, I desire he may be examined as a Witness for me.

Manager.

Sir George Ratcliffe is not examined, nor at all sworn in the Cause on our Motion, and admitted, that if they produced him as a Witness, they would not deny my Lord of Strafford to cross examine him. The Lord Steward declared the sense of their Lordships, That Sir George Ratcliffe could not be examined.

E. of Strafford.

I shall readily obey; but yet observe, That if it were only matter of Misdemeanor, he might be examined, though charged. But this is my unhappiness, to be debarred of my Witnesses, because I am charged with Treason in general, though there be nothing in particular that's near the complexion of Treason.

Manager.

We desire to observe, that this justifies a part of our Charge, for the Charter of the Subjects Liberties are, as his Lordship confesseth, brought to the Council Table, and judged there, and not to the proper Courts where they ought to be judged; the Council-Table having no Power to declare the Validity or Invalidity of Charters from the King to the Subject.

E. of Strafford.

I crave Liberty to explain my self, That I said not they were brought to the Council-Table to be judged, but that consideration might be had, Whether there was ill usage and extortion practised under colour of them or no; whether any thing were done that hindred the growth of that Town, and the good of the People, and the Protestant Religion, that it might appear how the business stood in point of State; but to give a judgment upon them in Law, it was never in my thoughts.

Robert Lord Dillon being then asked, Whether the Charters of Dublin have not been brought before the Council of Ireland, there to be considered concerning the Validity of them, and whether it did not appear that for divers Occasions, Exactions and Tolls, and by-Laws, and other abuses in the exercise of these Charters; they did not appear to the King's Learned Council, and others learned in the Law, to be void.

He Answered, That it was a question he did not expect; and yet being called, he should faithfully and freely tell his knowledge of it, to his best remembrance: That he doth remember very well, that the Charters of Dublin have been brought to the Council-Board, and argued strongly against by the Kings Learned Council. That there was one particular of 3 d. Custom challenged by the City, which endured a very long debate: That it was argued against them, That they exercised by-Laws, contrary to the Common Law of the Land, and that divers other things were urged against them; but he remembers not the particular determination of the Board upon the question.

Being

Being asked severally, what time those Charters were so brought, and how long after my Lord of *Strafford's* coming into *Ireland*.

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He Answered, That he precisely remembreth not the time, but he takes it to be five or six years ago, something more or less, and he thinks about a year or two after my Lord of *Strafford's* coming, but he remembers not the time, not expecting to be Interrogated in it.

We desire your Lordships to observe, That the words were spoken before the Charters were brought to the Council-Board.

Manager.

It follows not, That because they were questioned at Council-Board afterwards, I did not therefore know them to be void, when I spoke of them, for they were complained of in Parliament, as great Grievances, in the exercising of them, and to that purpose I desire my Lord *Dillom* may be heard.

E. of *Strafford*.

And being asked what he knew concerning the Charters of *Dublin*, being questioned in the Commons House for divers Oppressions, unlawful By-Laws, and other ill usage of their Liberties.

He Answered, That he was a Member of the first Parliament after my Lords coming into *Ireland*, 1634. After this Visitation of the Mayor some half an year, but he knows not the time precisely. That divers Members of that House did object divers Misdemeanors, in misusing the Priviledges of those Charters. That the particulars were several By-Laws which they did execute, contrary to the Common Law: Another was, that by the Priviledge of those Charters, they excluded divers of the Tradesmen that came out of *England* to set up Manufactures there, which was conceived a great Grievance to that Kingdom. Another was, that having the Government of that Town, being a Navigable Port, they permitted the Soil to be emptied into the River, without care or regard.

That at the time of the Presentment of the Mayor, my Lord took occasion to advise and advertise the Mayor of several Defects in that Town, and divers of the Commons House of that Parliament are here that were present.

Hence observe the Reason and Grounds of my Exception to these Charters, and the Effects of questioning them, which were two: First, By this means I am perswaded (and thereof I beseech the Honourable House of Commons to take notice, as that which is reputed my greatest Crime in *Ireland*) there be three Protestants in *Dublin*, at this hour, for one that was there when I came over; for the Townsmen did keep all the Trade, and ingross all the Manufactures into their own hands; and being Natives, and *Romish Catholicks*, did depress the *English*, that strangers out of *England* had little advantage of Trade. And whatsoever any man may say or think on Information from persons that do not love me, who are Members of neither House (for so I desire to be understood, when I speak of persons unfriendly to me; I complain of nothing that is or shall be done me here, but will leave it all, with thankfulness to God Almighty, and with that Duty and Reverence to this House, that becomes me.) It will be known hereafter, when I perhaps am in my Grave, that my greatest fault in *Ireland*, hath been my extream Zeal to bring them to conform with the Church of *England*, which by that means hath provoked a great deal of Displeasure.

E. of *Strafford*.

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And secondly, I observe, That this argues no great malice in my heart, nor desire to oppress the King's People, when I shall tell your Lordships, That to this day those Charters were never legally questioned, but are enjoyed. So far was I from pressing rigorously any thing against them, I desiring nothing but Reformation, and to have them what they ought to be, and to leave them not less, but more happy than I found them.

And if I should serve there again, as I hope I shall serve only God Almighty, and my Master with my prayers, they should be freed from all exactions and misusings of them, tending to the prejudice of the Town, the King's Service, and the Service of Almighty God.

And so I hope I have made a clear Answer to so much as was charged, to free my self from guilt of Treason, reserving to my self the advantage of having my Counsel heard, in proper time, to the matter of Treason in point of Law, according to the liberty your Lordships have afforded me.

Next, I shall proceed to that which is proved, and no way charged, which I forbore to speak to the day before, as holding it an impertinent expence of time to your Lordships, and a spending of my own spirits, which, God knows, are weak and infirm indeed. If I were permitted to speak this morning to all the things extrajudicially formerly offered, I should give a free and clear Answer. But suffering by my Ignorance and silence then, I now desire leave to Answer those things that came *de Novo*, and that by three Witnesses, touching words spoken at another time to both Houses of Parliament.

I confess it to be true, that the second day of the last Parliament, but this that is now sitting, I had the Honour to sit as His Majesties Deputy, and it was the greatest Honour that ever I received; and I should be loath to say any thing, sitting in that Place, that should not fully comply with the Goodness, Clemency, and Justice of His Majesty, or should misrepresent Him in any kind to his People in another sense, or to other purpose than his own Great and Princely Vertues do Merit and Deserve.

And that all I said at that time tended to that purpose, to shew and set forth to them the excellent Goodness of His Majesty, and the Graciousness of His Government. Therefore if I should say any thing to the purpose, as it is offered, I should go much against the purpose for which I intended my Discourse. For me to have said openly there, in the King's Chair, that they were a Conquer'd Nation, and must expect Laws from Him, as from a Conqueror, when I knew it most false; and expected from His Majesty, that He would Govern them by the same righteous Rules of Justice and Honour (as his Predecessors had before him) I had been much too blame, and it had been against the drift of my Discourse. And I must say, and will say, to the death, I never spake such words, That they must expect Laws from Him as from a Conqueror. I know very well how it is proved, and what my own affirmation doth *in foro Judicii*; but how it may work *in foro Conscientie*, I trust I have so much credit left in the World, as to be known to be a man of truth, and not usually to speak untruths. And I take the heavenly God to Witness, that I never spake them. I remember the words, and the occasion by a good token, without which I should not have remembered them; my Friends desiring a Copy of my Speech, which Copy is in *Ireland*; and were it here, would satisfy every man. It was to incline them to take into consideration the great Debt that lay on the Crown, being near 100000 £ the shortness of the Revenue, which was then short of the yearly Charge 24000 £. though the first day it was stood upon,

upon, and would have been coloured over, as if there had been no such thing. I was to move thereunto a supply to pay the Debt, and to improve the Revenue to such a height as might answer the Charge of the Kingdom; that to induce this, I told them the Kingdom of *England* had expended great and vast Sums of Money, and had issued a great deal of Noble blood for the reducing of them to Obedience, and in that happy State wherein they then lived. That they must not think the Kingdom of *England* must always bear the Charge of the Crown, but they must so fit the business, that the Kingdom may bear its own Charge; For, said I, and these are the words, (I take God Almighty to Witness) and no other. If the Kingdom of *England* should still be put to their Charges, and the whole Expence should still rest on the Conqueror, you might very well think you are so dealt withall, as never any other Conquer'd Nation had been. That on these words my Lord of *Ormond* came to me, and told me, That the words he had spoken were not well taken; For that I had said, The *Irish* are a Conquer'd Nation, and that is not well. I answered his Lordship, Truly, my Lord, you are a Conquer'd Nation, but you see how I speak it, and no otherwise.

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But this I am not charged with, and offer it only to keep and preserve me in a good Opinion, as much as I can of both Houses of Parliament, which I desire of all things under Heaven, next the Favour of Almighty God, and his Gracious Majesty.

He then proceeded to examine Witnesses: And first *Robert Lord Dillom* being asked, Whether he was present when he spake these words to both Houses of Parliament, and what they were?

We desire to put your Lordships in mind that there were two times when my Lord spake such words; one, when he spake to both Houses of Parliament at the Publick Speech now mentioned; the other, upon delivering a Petition by the House of Commons: That the words which the Commons Charge, were the last mentioned by me, not the first, and that was desired to be observed.

Manager.

The Question being repeated.

The Lord *Dillom* Answered, That he served as a Member of the Commons House that Parliament, and in respect of the Honour he had to be of the King's Council, and the Son of a Peer of the Realm, he stood under the Cloath of State, and was present when my Lord made his Speech to both Houses; for that passage of the Conquest, some touch there was of it; and he hath heard my Lord of *Ormond* speak in particular of it: For the other words, That they should expect Laws as from a Conqueror, he took God to witness, he did not remember them.

Being asked whether he remembers them to be spoken at any other time: He answered, That on his Soul he doth not.

Sir Adam Loftus being asked to the same purpose.

He Answered, That he was the first and the last day at the Parliament, that he doth not well remember the middle day, and he cannot burden his memory with any such words spoken that he heard either then, or at any other time.

Sir Robert King was called, and asked to the same purpose.

He Answered, That he thinks he was present that day, but not within hearing, and he never heard the words at any other time.

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Lord *Remula* being asked, Whether then, or at any time he heard my Lord of *Strafford* say, They must expect Laws from the King, as from a Conqueror.

He Answered, That he was then in the House, and remembers the words in the first place, That *Ireland* was a Conquer'd Nation; that for the words in the second place, something was spoken, but how far he cannot witness.

Sir George Wentworth questioned on the same Point.

Answered, That he sat under the Chair of State at that time, and remembers not that my Lord ever spake these words, That the King might do with them as he pleased. That it pleased my Lord-Lieutenant to send him into *England* at that time, to attend His Majesty, with the Success of that Parliament, and that he brought the Speech with him, and can confidently affirm, There was no such thing in the Speech; and the Speech he did deliver to some Privy-Counsellor, and added, That he never heard my Lord publicly or privately say those words, They must expect Laws from the King as from a Conqueror.

Manager.

We desire to know, Whether the Witness was returned out of *England* when this Remonstrance was delivered. For the Commons Charge it thus, That the House of Commons delivered a Petition, to have the Laws executed according to the Instructions, upon which the words were spoken, and we believe *Sir George Wentworth* was not come back, and then it was impossible he should hear him, for it was after the Parliament had sat, and some proceedings had.

E. of *Strafford*.

I observe, How it is in some of the Witnesses, for my Lord *Gorminstone* fixed it on the first beginning of the Parliament.

Managers
Reply.

He spake it to the occasion of the Petition, but the distinct time he doth not remember.

Sir George Wentworth being asked touching the time of his going into *England*,

He desired to know what time the Petition was delivered; but he went over some few days after the Subsidies were granted.

Lord *Robert Digby* being asked, Whether at the Parliament at *Dublin*, or any other time, he ever heard my Lord of *Strafford* speak those words.

He Answered, That he never did; that he doth not know whether he was present at that time or no; that he did diligently wait, but doth not remember the words, nor occasion, but he thinks he was not present.

Managers
Reply.

Your Lordships have heard my Lord of *Strafford's* Defence with much patience, That he hath said nothing that takes off the Charge, but some things that aggravate it.

That he would answer the Particulars, as his Lordship had propounded them. And first he observed, That his Lordship denies not the words Charged, which makes greater way for proof of them.

He informs of the ill Fortune of other Governors, that one was Attainted, and the Informations afterwards retracted, that my Lord of *Faulkland* was complained of, yet a Noble and good Governor, against whom, or any Deputy, we can say nothing: But what is this for my Lord *Strafford* to say, Others were questioned, therefore he is Innocent.

These

These were complaints of particular men, This against my Lord of Strafford, is the complaint of all the Commons of England.

It is said, here is no Treason in this Article, no Argument of Treason; but the Commons never pressed these words singly and dividedly, to be Treason; but take all together, they discover that Disposition, that Counsel, that Resolution that my Lord of Strafford had taken on him, the ruine and subversion of the Common Law, in both Kingdoms.

It is said, an Answer is put in, and no Replication. It is true, in other Courts, if you go on Bill and Answer, the Answer is taken *pro Confesso*; but the Commons desire not to bind up my Lord of Strafford with Formalities; but by the substance of their Charge, they have averred their Charge, which is as much as a denial of his Answer.

To there being another Government in Ireland than in England, my Lord himself spoke of it by himself; but he thinks it will not be material to this purpose; for whatsoever it is, some Government there is: but the Speech of my Lord tends to take away all Laws; for they must expect Laws as from a Conqueror, in that Limitation.

For his referring it to the time, taking it in the sense, that the then Conqueror might do what he pleased, that's true, and justifiable: But that is to suppose the words otherwise than they are; being spoken, not of the Kings that were before, but of His Majesty that now is.

My Lord would make an Argument, his words were well accepted, because Mr. Slingsby heard nothing to the contrary; the words had much Acrimony and Sharpness, and we dare not believe the Mayor of Dublin durst tell my Lord of Strafford so, or forbear any Complement to him, though he had been displeased with him. But if that be material, the Witnesses that have proved the words, will tell Your Lordships, it was resented with a great deal of Grief and Sorrow in all the hearers.

His Lordship justifies what was spoken of the Charters, on these grounds, First, That the Witness said they were Antiquated Charters, and therefore did not bind; whereas it was a scornful Epithite, their Antiquated, and Worm-eaten Charters, did not bind.

It is said, they were void through negligences, questioned at Council-Table, complained of in Parliament. But they must take the words to pieces, not altogether. Had he spoken of the Charters alone, that they were void Charters, it were no crime, no indiscretion. But take it with the occasion and connexion, it admits of no such mitigation, or interpretation. He tells them, they are a conquered Nation, and they must expect Laws as from a Conqueror: And they are a conquered Nation, and their Charters are no further good than the King pleases.

It is said, It is strict to answer presently what may be objected; and the Examinations are extrajudicial; we doubt not but Your Lordships will justify our Proceedings, nor is there any strictness in them; for if a man be questioned of a Crime, and several Evidences be brought to make up this Crime, some concurrent, some precedent, they will be allowed of in other Courts; It being never used, to set forth in a Charge all circumstances of Proof, The main is produced, and this is an Evidence to prove that, and it is within the Charge; for there is a Charge, that he corrupts the Laws and Government.

Then my Lord produces divers Witnesses, who speak in a different sense, Sir Robert King heard nothing; another, that he remembers nothing; and if he remembers nothing, it may as well be said of the rest, That there might be something they did not hear, or remember; for they speak

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speak no more, but they did not remember ; There may be something they forgot, as well as another forget all.

My Lord *Ranulagh* says, He remembers the first words, and something as spoken of the second ; but he cannot tell how far : So that there is rather a doubt, that something was spoken to that purpose, than otherwise. The Lord *Digby* was not present, Sir *George Wentworth* remembers not the words ; he hath a Copy of the Speech, and is confident the words were not spoken. But they were not spoken in the first Speech, whereof there was a Copy, when the Petition for the Laws was delivered.

And this is an Aggravation against my Lord of *Strafford*, that by his own shewing, there was an Exception taken, when he spoke in a milder sense, and to advance His Majesties Government, it had an ill impression, and was taken notice of, and the Exception delivered to himself.

Now if after Exception taken to a Speech delivered in Parliament, cloathed with so much mildness, he in the same Parliament, as soon as Subsidies are granted, shall tell them, they are a conquered Nation, and shall not have Graces, but such Laws as the King will give them : This puts the Offence in higher terms than before ; so far are they from mitigation of the Offence.

We desire Witnesses may be heard concerning the circumstance of time.

Mr. *Fitzgarret*
a Witness.

Mr. *Fitzgarret* produced, and Sworn.

Was asked whether he knew of a Petition delivered to the Earl of *Strafford* by the Commons, concerning the Laws ; and how in time it followed the publick Speech at the beginning of the Parliament, and what Answer was given to it.

He Answered, That he was then a Member of the Commons House, and present when the Petition was delivered : But after the House of Commons had given the King six Subsidies, the House of Commons entred into consideration, of Petitioning for such things as were necessary and expedient for the Common-wealth, as they thought ; this Petition was preferred to the Lord Deputy, a good space of time after the Subsidies were granted, and Advertisement sent to *England*, of the good service done in obtaining those Subsidies from the House of Commons, That he remembers not any part of the Answer given ; There was an Answer given in Writing, either at Council-Table, or in full Parliament, from the House of Lords ; but that he spake only to the point of time.

E. of *Strafford*.

My Lord of *Strafford* did here affirm it to be most certainly true, That the Petition concerning the things Mr. *Fitzgarret* mentions, was delivered at Council-Board, and not in Parliament ; and desiring Mr. *Fitzgarret*s further explanation of himself :

He Answered, That he conceives there were two Petitions ; one, as he thinks, concerning the performance of the Instructions of 1628. whereunto an Answer might be given at Council-Board ; and he believes it was subscribed by many of the Council. There was another Petition of Grievances, seeking redress of them ; and to whether of these his Lordship gave an Answer in Parliament, he remembers not ; but believes there was an Answer made to both, or one of them, in full Parliament.

Article 3.

Lord Gormin-
stone a Witness.

The Lord Gorminstone being demanded at what time, and on what occasion my Lord of Strafford spake the words, he was examined on before, in the Parliament at Dublin :

He Answered, A Petition was delivered to my Lord of Strafford, and he spake to the House, wherein he spake the words that he had formerly related, That they must expect Laws as from a Conqueror ; and that the Instructions published for the settling of that Government, were procured by a company of narrow hearted Commissioners ; That he did not then remember the certain time ; but he is sure it was in Parliament ; and so repented, that almost all took notice of it ; when most part were English and Brittish Extractions, and very few Irish.

The Lord Killmallock being demanded to the same purpose,

Lord Killmal-
lock a Witness.

Answered, That he conceived the occasion was, a delivery of a Petition to his Lordship. It is true, it was not delivered in Parliament, nor were the words spoken at the Council-Table where the Petition was delivered : But he conceives, it was on occasion of delivering that Petition, that his Lordship speaks : For after the Petition was delivered, three or four days after, his Lordship came to the Parliament House, he called both Houses before him, and there delivered these words, That Ireland was a Conquered Nation, and therefore must expect Laws as from a Conqueror. Adding further, That the Book of Instructions, meaning the Book Printed in King James His Reign, for the orderly Government of the Courts of Justice, was contrived and procured by a company of narrow-hearted Commissioners, who knew not what belonged to Government. The words, he said, he remembers very perfectly, as having great misery on his heart in the speaking : And whereas it is said, none did take notice of them ; They did, but they durst not, it wrought inwardly ; and had they spoken of it, they expected no redress, but a greater addition of calamity to them.

We shall now proceed, and observe, That this Article touching the Laws of Ireland, gives the ground-work of what follows in the subsequent Articles concerning Ireland.

Manager.

And first, We desire Your Lordships to take into remembrance, That though Ireland differ in some particular Statutes from England, yet they enjoy the same Common Law, without any difference.

That by the Statute 28 H. 6. in Ireland, It is Enacted, That every Cause shall be remitted to its proper Court ; It is true, the King hath this Prerogative, not to be tied to sue in the Kings-Bench ; but may sue in any Courts of Justice, for matters Triable in the Common-Pleas, or Chancery, or Exchequer ; all Courts are open to him, wherever he will have his Cause judged ; but with the Subject, the proper Cause must go to the proper Court, and according to this, the exercise and use is continued in that Kingdom.

Some Ineroachments being made, King James, of blessed memory, took consideration of it, he appointed Commissioners, and Instructions were Printed in pursuance of this : A Noble Earl now present, Justice Jones, Sergeant Crew, and divers others, were employed in that Service. These Instructions, as they remit the Causes to the proper Courts, so they declare, that it had crept in at the Council-Table in latter times, to take Oaths ;

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Oaths; but direct, that it shall be forborn for matters of Interest and Complaint between party and party, and matters of Title.

And it stays not here; but a Proclamation is issued to the same effect.

This Statute, these Instructions, and this Proclamation, we desire may be read.

Accordingly the Statute was read, whereby it was ordained to the Governour of the Land, or other Officer for the time being, He that accuses, shall find sufficient sureties for the damage of him that is accused; and if it shall be adjudged that the Suggestion or Accusation, is not true, &c. And also, that he that is Arrested, may go by Surety or Bail, till the matter be determined.

And if it be matter of Treason or Felony, to be remitted to the *Kings-Bench*; if Conscience, to the *Chancery*; if Franchise, to the Seneschal of the Liberty; if for Debt, to the *Common-Pleas*, &c. saving the Kings Prerogative.

Then part of the Instructions were read, published 1622. wherein it is Ordered, That the Council-Table shall keep it self within its proper bounds.

Amongst which, the Patents of Plantations, and the Offices on which the Grants are founded, are to be handled as matters of State, and to be determined by the Lord Deputy and Council publicly, but Titles between party and party, are to be left to the ordinary course of Law, and neither Lord-Deputy, Governour, nor Council-Table, hereafter to intermeddle, or trouble themselves with ordinary businesses, within Cognizance of ordinary Courts, nor meddle with possession of Land, nor make or use, private Orders, Hearings, or References concerning such matters, nor grant Injunctions, nor Orders for stay of Suits at Common Law, Causes recommended from the Council of *England*, and spiritual Causes concerning the Church, excepted.

Then the Proclamation was read, dated *November 7. 1625.* whereby it is commanded, That the Deputy and Council-Chamber in *Ireland* then, and from time to come, shall not entertain, or take consideration of any private Cause or Causes, or Controversies between party and party, concerning their private and particular Estates, nor any Cause or Controversie of that Board, which are not of that nature that do properly concern matter of State; But that all Causes and Controversies of that nature, moved or depending between party and party, concerning private and particular Interests, be proceeded in in the ordinary Courts of that Kingdom respectively, to whom the Cognizance of these Causes and Controversies doth belong, &c.

For that Objection from the Opinion of my Lord *Cooke* in *Calvins Case*, if it were an Opinion to the contrary in an Argument, it is no binding Authority; But that Opinion is nothing at all against what hath been said; for it is express, That *Ireland* did retain the same Common Law with *England*. It is true, *Ireland* hath Statutes and Customs particularly retained; and so there be divers particular Customs in *England*, that differ from

from the Common Law, yet are approved and allowed in it; as in *Wales*, and the Custom of *Gavel-kind*, and the Common Law, which is the general Government, is the same. If there be any Statute that gives my Lord of *Strafford*, as Governour alone, power to take Cognizance of meerly private Causes, it is something to the purpose to say, there is a particular Statute; but till that be shewed, he hath in this, erected an Arbitrary Power.

And so he concluded the Reply, and the Third Article.

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THE Fourth Article.

The Charge.

That Richard Earl of Corke, having sued out Proceſs in courſe of Law, for recovery of his Poſſeſſions, from which he was put, by colour of an Order made by the ſaid Earl of Strafford, and the Council-Table of the ſaid Realm of Ireland, upon a Paper Petition, without Legal proceeding, did the 20th day of February, in the 11th year of his now Majesties Reign, threaten the ſaid Earl, (being then a Peer of the ſaid Realm) to Impriſon him, unleſs he would ſurceale his Suit, and ſaid, That he would have neither Law nor Lawyers, diſpute or queſtion his Orders. And the 20th day of March, in the ſaid 11th year, the ſaid Earl of Strafford, ſpeaking of an Order of the ſaid Council-Table of that Realm, made in the time of King James, which concerned a Leaſe which the ſaid Earl of Corke claimed in certain Rectories or Tythes, which the ſaid Earl of Corke alledged to be of no force, ſaid, that he would make the ſaid Earl, and all Ireland know, that ſo long as he had the Government there, any Act of State there made, or to be made, ſhould be as binding to the Subjects of that Kingdom, as an Act of Parliament; and did queſtion the ſaid Earl of Corke in the Council-Chamber there, upon pretence of breach of the ſaid Order of Council-Table; and did ſundry other times, and upon ſundry other occaſions, by his Words and Speeches, Arrogate to himſelf a Power above the fundamental Laws, and Eſtabliſhed Government of that Kingdom; and ſcoſned the ſaid Laws and Eſtabliſhed Government.

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ONE of the Managers opened the 4th Article, and ſaid, The former Articles ſhew my Lord of *Straffords* Words, this his Actions.

This Article concerns my Lord of *Corke's* being diſſeized of an Im-
K k appropriate

Article 4.

appropriate Rectory, upon a Paper Petition to my Lord of *Strafford*, and referred to the Council-Table, the Earl of *Strafford* saying, upon the questioning of the Proceedings thereupon, That neither Law nor Lawyers, should question or dispute his Orders; an Order of Council-Board in King *James* his time, enjoyning, That no Parson, Patron, or Ordinary, should make a Lease for longer time, than the life of the Incumbent, was made use of as a ground to dispossess the Earl of *Corke*.

Manager.

In the first place, We desire to open the Proceedings at Council-Table before my Lord of *Strafford*'s time, (*viz.*) That in no case concerning Land, no Decree hath been there made, to bind up the party for remedy at Law.

Lord *Ranulagh*
a Witness.

The Lord *Ranulagh* being interrogated, whether by the course of Proceedings at Council-Table, the Deputy and Council have determined Title of Land and Possession, and interrupted the parties to proceed at Law.

He Answered, That he hath observed the course of the Board for 22 years; and the course was, That if Title of Land, between party and party, were in debate, It was commonly dismissed from the Board, with a leading order, to be tried by course of Common Law.

Being asked, whether a Deputy alone hath determined private Interest.

He Answered, That he cannot positively say, whether it were done privately; but to the best of his remembrance, he knows not that ever any Deputy determined any matter of private Interest, but brought it to the Board, though by reference, or private proceeding, it might have proceeded before it came to the Board.

E. of *Strafford*.

My Lord of *Strafford* desired he might be asked, whether he ever knew, that any matter of Inheritance was ever by himself and the Council determined, whilst he was Governour there, that was barely Title of Land, and nothing else.

Witness.

He Answered, And desired to explain himself concerning the former, That Causes of the Church, and matters of Plantations, were resolved in former Deputies times, to be dispatched at the Board. And for the latter question, he never knew matter of Title determined at the Board, but in Causes of the Church, and Plantations.

E. of *Strafford*.

My Lord of *Strafford* desired he might be asked, whether as President of *Connaught*, he did not familiarly, on Paper Petitions, rule all things in the same nature, as the Deputy on Petitions to him.

The

The Fifth day.

Friday, March 26. 1641.

After consideration of this matter by their Lordships, it was resolved in the Upper-house, That my Lord *Ranulagh* ought not to be examined on that point, it tending to an Accusation of himself.

The Earl of *Corke* being Sworn, and questioned touching my Lord of *Straffords* words to him, upon his excepting against the Orders made upon the Petition touching the said Rectory.

E. of *corke* a
Witness.

His Lordship Answered, That he had been in Possession, as Tenant of the Crown thirty five years, of a Rectory and certain Tythes in the County of *Tiperany*, for which he paid a yearly Rent; and having enjoyed it so long, my Lord presented to it *Arthur Gwyn*, that had been his Coach-mans Groom. That when he heard of it, he went to my Lord privately, and told his Lordship, that he was His Majesties Farmer of those Tythes, and paid a Rent; and desired he might not be sued for them in the Council-Chamber: but if a Suit must be commenced, that it might be in the proper Court, the Exchequer. That my Lord told him, he should Answer it there: That he did so, and my Lord ordered it against him; That a Commission went down, and Examinations were taken: And after my Lord had ordered it against him, an Order of course was set down, that *Gwyn* should have them till I recovered them by course of Law. That thereupon, I brought an Action against him, and his Tenants, who were Arrested, and came to *Dublin*; and then went to my Lord, and Dr. *Bramhill*, Bishop of *Derry*. That thereupon I was sent for before my Lord Lieutenant that then was; and my Lord Lieutenant told me, Sir, You have taken out Writs against *Gwyn*, to whom I Ordered the Tythes of the Rectory. I confest I had, and desired to know why he asked me so; adding, that I am sure your Lordship will not take away my Possession, by a Paper Bill, without Trial. That my Lord of *Strafford* answered, call in your Writs, or if you will not, I will clap you in the Castle; For I tell you, I will not have my Orders disputed by Law, nor Lawyers.

Gwyn was a poor man, and if he should get the Rents of the Impropriation into his hands, I could not get them again: And therefore I desired security, That if by course of Law I should recover it, I might have it again; That my Lord of *Strafford* thereupon said, It was very fit and just; but the Order being brought unto me, I said there was no such thing in the Order.

Being desired by the Earl of *Strafford* to repeat the last over again,

I say, that I told the Lieutenant, that I did hold, the Council-Chamber could not hold Plea of this, and thereupon cited 28 H. 6. the Book of Orders, the Proclamation. Then I moved his Lordship, that in regard *Gwyn* was a poor man, and not answerable, and might get the Rents, being

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near 100 marks a year, he might give security for the Rents, if I should recover them by course of Law ; That my Lord of *Strafford* thought it just it should be so entred in the Order.

And being asked how that came to be left out,

He Answered, That Sir *Paul Davis*, the Clerk of the Council, told him, my Lord of *Strafford* found fault with it, and struck it out with his own hand.

Being asked what words he heard from my Lord of *Strafford*, concerning the said Order at Council-Board, in King *James* his time :

He Answered, That there was a Parsonage in the County of *Kerry*, in his Presentment, and it fell void ; the Dean, and some others, commended one *Atkinson* to be his Vicar, That on their Commendation, not knowing him himself, he presented him, without any consideration. That *Atkinson* afterwards fell into decay, and was Imprisoned ; and the Prison being very loathsome, the Bishop wrote unto him, this Deponent, and sent him a Lease, under the Hand and Seal of him the said Bishop, and the Incumbent, with a Label for his the Deponents hand, and desired him to seal it for 40 s. a year to another, that *Atkinson* might pay his Debts, and stock himself with Cattle ; That he the Deponent, refused it, though brought 50 miles from his House, fearing it might be prejudicial to the next Clerk. That the Bishop sent *Atkinson's* Wife back over the Mountains with his Letter, and the Lease ; and he the Earl of *Corke*, did sign it then ; For, seeing the misery of the poor Woman, and her Children, he thought it a work of Charity ; and it continued so till my Lord of *Strafford* came to the Government.

That then he had a Bill preferred against him in the *Star-Chamber*, for breaking an Act of State, That none should make a Lease for longer than the Incumbents life, and desired that the Bill should be read, in all the Proceedings of it ; That thereupon he told the Earl of *Strafford*, it was a work of Charity, and he never heard of such an Act of State, being not published, and made in King *James* his time, and in the Lord *Grandison's* Government, who are both dead : And therefore he conceived, there was no cause to charge, or prosecute him for it, being but an Act of State. That my Lord of *Strafford* Answered, I tell you, my Lord, as Great as you are, I will make you, and all the Subjects of *Ireland* know, That any Act of State made, or to be made, shall be as binding to you, and the Subjects of *Ireland*, during my Government, as an Act of Parliament.

Being asked on my Lord of *Strafford's* motion, whether the Order made in the Case of *Gwyn*, was not made by the major part of the Votes of the Board :

He Answered, That he did say that it was Voted at the Council-Table, but he knows not whether it were done by the major part ; and afterwards (with a lower voice) His Lordship added, that he thinks it was never Voted.

John Waldron a
Witness.

John Waldron Sworn ; was examined touching the words my Lord of *Strafford* was charged to say, touching an Act of State, being equal to an Act of Parliament ; and the occasion :

He Answered, It was his chance to be at Council-Table, when a Cause, depending between the Merchants of *Galloway*, and some others, that prosecuted the business in behalf of the Church, about a Lease made by the Dean of *Derry* ; which was debated at the Council-Board. And there was

was one Mr. *Martin* of Council for the Merchants, and he pressing hard for his Clients; It pleased my Lord to think he had over-shot himself, or was too forward; and asked what he had to say, that he prest that Cause so hard; That Mr. *Martin* Answered him, He had an Act of Parliament, or Statute, or to that purpose.

That my Lord of *Strafford* Replied again, Sir, I will make you know, That an Act of this Board shall be as good as any Act, or Statute, or words to that effect.

John Kay, after some Exceptions taken by the Earl of *Strafford* against him, as no fit Witness in respect of his prosecuting a Suit against his Lordship, for the Lady *Hibbotts*, which was Over-ruled by their Lordships, was sworn, and being asked touching the said words to be spoken by the Earl of *Strafford*, and the occasion and the time.

He Answered, That he was present at Council-Table by chance, when there was a Cause, wherein Mr. *Martin* pleading for his Clients: My Lord-Deputy then asked him, What made him so earnest for it; He said, He had an Act of Parliament, or Statute, to justifie his Cause. Hereupon my Lord-Deputy Answered, He should know, that as long as Himself sate in that Place, An Act of State should be as strong as an Act of Parliament, or words to that effect.

Being asked of the time.

He Answered, He doth not remember the time, but it was three years and upwards. It was before *July* 1637. but the Day and Year he remembers not; but it was in the Case where Mr. *Martin* was Council.

My Lord *Corke* being asked about the time, he said, It was in 1635. about *February*.

Mr. *Waldron* being asked, Whether it was in a Church-Cause. Answered, My Lord-Deputy made an Offer, That if they would take a Lease for 21 years, at full value, they should have it. But if they would stand on the Trial of the Lease, they must take the adventure.

And Mr. *Hoy* being asked, Whether it was a Church-Cause.

He Answered, He conceived the Church was Interested in it.

Lord *Killmallock* asked, Whether he heard my Lord *Strafford* say, An Act of Council should be as Valid as an Act of Parliament, when, on what occasion, and to what scope.

He Answered, That he was at Council-Table some four or five years ago, and there did hear my Lord of *Strafford* say to one of the Council (he cannot say it was Mr. *Martin*) He would have him know, as long as himself was Governor, An Act of State should be as binding as an Act of Parliament; on what occasion he cannot say. He further said, That in the 10th Year of the King, in the Parliament held in *Ireland*, he heard Sir *George Ratcliffe* (my Lord of *Strafford*'s Eccho) in that House, say, On occasion of a Bill that was cast out in that House, making it Felony for any to have Powder without Licence. It is all one, he would have an Act of State for it, which should be as binding as an Act of Parliament.

Sir *Pierce Crosby* was asked, Whether he heard my Lord of *Strafford* at another time say, An Act of Council should be as valid as an Act of Parliament, when, on what occasion, to what intent.

He Answered, That he doth very well remember the words, the time not precisely; but he was sure it was soon after my Lords coming into *Ireland*, and before the Parliament, and was the cause of the first Exception against him the said Sir *Pierce Crosby*, for he reasoned it with his Lord-

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Lordship, being at his own Table at Dinner, there being then present, and sitting next to him, a Member of this Honourable House, my Lord *Castlehaven*. There were likewise my Lord *Osmond*, and several others of the Council of *Ireland*. The words were these, That if he lived, He would make an Act of State to be of equal Power with an Act of Parliament. That he, the Deponent, thought his Lordship spoke it merrily, and answered him in the same kind, saying, My Lord, when you go about to do this, I will believe some body will rise, as an *English* Gentleman did in *England*, and desire a Clause of Exception, that it may not reach to himself, his Kindred and Friends. That my Lord of *Strafford* looked on him very earnestly, and said, He would take him, whosoever he was, and lay him by the heels.

That this was in Parliament time: And he the Deponent would fain have qualified it; but Parliament, or not Parliament (says my Lord) *Ireland* is a Conquer'd Nation, and the Conqueror should give the Law. That he the said Sir *Pierce Crosby* Replied, My Lord, then, I beseech you, give me leave, I am one of those that must uphold an Act of State, by all lawful ways, having the Honour to be a Member of the Government, though unworthy. What will be alledged on the other part? they will say an Act of Parliament attaints and restores Blood, and doth many things an Act of State cannot reach to, for it is confined within the limits of the Government. That my Lord having not to Reply to this, rose in some choller; and told him, the Deponent, of something else he conceived he the Deponent had done amiss at Council-Board on a Statute that was in debate.

And so the Manager concluded the Article with thus much more; The Article, in the conclusion of it, charges him with scorning the Government and Laws. And it was desired their Lordships would take notice of what is proved out of these words, and the concurrent proof Yesterday.

The Earl of Strafford begins his Defence, saying,

E. of Strafford.

First, I must stand upon the truth of my Answer, which must be good, till it be denied, so far as goes to matter of Misdemeanor.

I have not had time to examine Witnesses, having not liberty till *Friday* last, which I urge by way of excuse, if my Answers give not full satisfaction.

Here is an Order of the House of Commons there, whereby your Lordships may perceive how unlikely I am to have any thing from *Ireland* that may work to my Justification, which was read, and bears Date 25. February, 1640.

Authorising those undernamed to go aboard any Ships, and seize, search, and break up all Trunks, Chests, and Cabins aboard. To seize on all Silver and Gold, except small Sums; and all Debts, Evidences, and Writings as they shall think fit, of him the said Earl of *Strafford*.

This his Lordship conceived to be a great Violation of the Peerage of the Kingdom.

For making good of his Answer, his Lordship Alledged:

That the Council-Board of *Ireland* is a Court of Record, which differs much from the Council-Board of *England*; and that they proceed there by Bill, Answer, Examination, Publication, and all the formal courses of legal Proceedings.

That

That my care to preserve the Authority of the Deputy and Council, is not a Subversion of the Laws: Only it directs it, and puts the execution of the Law another way.

That for Reasons of State, it must be preserved, being the place of Resort for Protection and Defence of the *English* Planters, and Protestant Clergy.

I shall produce and acknowledge the Instructions made 22 *Jac.* and I shall read part that bounds the Council-Board particularly mentioned in the Reply to the Third Charge.

I desire a Book may be read, a Book in the hands of Mr. *Denham*, containing certain Answers given by the Lord *Chichester*, to certain Complaints made against that State, and written with Mr. *Baron Denham's* own hand, which on debate, was Resolved not to be read, being written only for a private Remembrance.

I shall refer to my Lord *Ranulagh's* Deposition the other day, to satisfy your Lordships touching the Proceedings at Council-Table.

To prove the Council-Board to be a Court of Record.

Robert Lord Dillom being asked, Whether before my Lord *Strafford's* time he had not known always, during his memory, the Deputy and Council in all causes of Plantation, and the Church, proceed by Petition, Answer, Examination of Witnesses, Publication, and Hearing, as in other Courts of Equity, and upon Oath.

He Answered, That he remembers in my Lord *Chichester's* time of Government, it was the practise of the Board so to do: That he remembers it in my Lord *Grandison's* time; that he had the Honour to be called to the Council-Board under my Lord *Faulkland's* Government, and knew it then. And it was in the Justices time that preceded my Lord *Strafford's* Government, To have Petitions, Examinations of Witnesses, Publication, a day of hearing granted, and all ordinary Proceedings.

Being asked, Whether at that Board they have not been punished, who have disobeyed Proclamations, and Acts of State, before my Lord *Strafford's* time, and how long.

He Answered, That out of his Observation, at Council-Table Acts of State were made, because of the scarcity of Parliaments, that they might be a Supplement to Acts of Parliament, that he hath known before; and when he sat at the Board on contempts of these Acts of State, or Proclamations, which, he said, he had heard the Judges say to be a kind of Law of the Land, for the present; the Parties were Attached, brought to the Board, and upon full Examination of the Cause, and Proof of the Contempt, sometimes Imprisoned, sometimes Fined, according to the Delinquency and Degree of the Offence supposed to be committed.

Being asked of Fines in Cases between Party and Party.

He Answered, That he doth not remember any Fine imposed in a special Cause betwixt Party and Party.

Sir Adam Loftus being asked to the same purpose.

He Answered, It hath ever been, since his remembrance, the constant Practise there, in Causes of the Church and Plantation, to proceed on Petition, Answer, &c. and Fines imposed on Breakers of Publick Acts of State and Proclamations. But he remembers not any Fines for Contempts, in case of particular and private Interest.

We shall admit it to have Cognizance of matters of Plantation and Church, and such as are recommended from the King to the Council here. But not to be a Court of Record.

Manager.

From

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E. of Strafford.

From these Proofs, I infer, That the Council-Board there hath another Constitution then here, where it is only a Court of State.

I shall produce the Order made in my Lord of *Corke's* Case, which I observe to be in the Case of the Church, and so within the Cognizance of Deputy and Council.

The Order was read, being signed by Sir *Paul Davis*, and acknowledged by my Lord of *Corke* to be Sir *Paul Davis's* hand.

Upon reading whereof, my Lord of *Strafford* observed, That it appears to be a Church-Cause, That the Order was just, and that the Clause for the Plaintiffs giving of Security to answer the mean Profits, which my Lord of *Corke* said was struck out of the Order, and for my Lord of *Corke's* liberty to bring his Action at Law, only he was limited to prosecute it within a year.

Mr. *Leake* was produced by my Lord of *Strafford*, and being asked what Authority he hath known the Council-Board in *Ireland* to exercise, both before my Lord of *Strafford's* coming thither, and since, in Causes of the Church and Plantation, and concerning Contempts to Proclamations, and Acts of State, and what Countryman he is.

He Answered, That his name is *Leake of Leake*, in the County of *Nottingham*, where, he said, his Family hath continued 400 years: That it is 14 years since he went into *Ireland*, and before this Lords-Deputies time; and before that time he did not observe any restraint from Injunctions on the Council-Board, till the Instructions published, and they did stay them.

That they proceeded by Injunction, Process, Bill, Answer, Examination, and other Courses, as in the Chancery of *England*. And since the same course hath been held. And my Lord of *Strafford* hath had in the Castle-Chamber divers Causes of Law argued before him concerning the Church, wherein one *Chadwick* and divers others were convented thirty times, when he the Examinant was there and heard them twenty he is sure, but he thinks thirty. But my Lord of *Strafford* did forbear to give Sentence, till he heard these Causes argued: That 14 years he hath been very well versed in that Kingdom, that he hath known Injunctions have gone out from thence to stay Proceedings in Causes, where they have Power of Jurisdiction, that he hath known my Lord Chancellor *Loftus* that was to grant an Injunction without Bill, and before any Complaint depended before him, and that he himself had the Injunction granted.

Being asked about the time of his going into *Ireland*.

He said he went betwixt 1627. and 1628.

Manager.

Whence observe, that the Witness hath made an Observation of the Instructions five years before he came into *Ireland*.

Being asked some other questions touching the occasion of his going into *Ireland*, and how he came to take notice of the Proceedings there.

He Answered, He hath been there at several times, to pursue some Tenants of his that fled into *Ireland*; and by reason of the Suits and Petitions he prosecuted in his own Right, he had occasion to enquire after Proceedings there, having been there for the most part of 14 years.

E. of Strafford.

To the Statute of 28 H. 6. which the Commons have pressed as a Rule for the remitting of Causes to their proper Courts, and to annihilate all these Proceedings before the Deputy and Council; and before the Deputy

alone in his particular Jurisdiction, in the nature of a Court of Requests *Article 4.*
in *England*. I reserve myself to have my Council give satisfaction therein:
Only desire your Lordships to observe the last Clause, saving the King's
Prerogative.

These Proceedings are not against *Magna Charta*, they being according
to the Laws and Customs of the Land; though it be not the Custom of
England. And if he hath been an Innovator, it hath been to conform
Ireland by all ways he could in Religion and Laws, to the better and more
excellent Pattern of *England*.

To the Objection made against Mr. *Gwyn*, he is altogether unknown to
me, only was recommended to me, and here is a Certificate that *Gwyn* is
Master of Arts; but that was not read, nor insisted on.

To the matter of words Charged upon him.

He Answered, That words without Fact can be no matter of Treason,
though of a higher nature then these.

That words are to be charged within a limited time.

1 E. 6. Ca. 12. whereby it is provided, That none shall be Impeached
concerning Treason for words only, if the party, being within the Realm,
be not accused within thirty days: If out of the Realm, within six months,
&c. Which Proviso his Lordship read, and reserved to his Council farther
to apply it.

For the words spoken to my Lord of *Corke*, That neither Law nor
Lawyers should dispute my Orders. I conceive I might justify the speak-
ing of them, if the Orders, and Acts of State be justly warrantable, and
honourably made.

Yet it is improbable I should speak the words, when the Order refers it
self to Law.

If they were spoken, they are at the highest indiscreet and foolish; and
it is a heavy thing to punish me for not being wiser than God Almighty
hath made me.

For the last words, That I would make the said Earl and all *Ireland* know,
That so long as I had Government there, An Act of State made, or to be made,
should be as binding as an Act of Parliament. I observe my Lord of *Corke's*
quick memory, that could swear them roundly, without missing a letter or
syllable as they are laid in the Charge.

That these words are only in the Charge, and so only to be answered
to. And for Answer, I say, That in case of an Act done, they may be
brought collaterally, as an inducement, to prove the intention. But the
Act must be proved, before they can touch me as of Treason.

My Lord of *Corke* is a single Witness, and by a Proviso, 1 E. 6. Ca. 12.
no person, after the first of *February* then following, is to be Ar-
raigned, &c. of Treason, &c. for any words to be spoken after the said
first of *February*, unless the Offendor be accused by two sufficient Witnesses,
or should, without violence, confess them.

To the words spoken of by the other Witnesses being the same in effect,
I am not to answer, being extrajudicially proved, and spoken in other
places and times than I am Charged withall.

Yet I think they might be fairly interpreted: For if an Act of State be
not made against an Act of Parliament, or a Fundamental Law of the
Land, but consistent with it, and made by way of provision for remedy-
ing some present Mischief in the Common-wealth, till the Parliament
may provide Redress for it. They are as binding during the time they
are in force, as an Act of Parliament (though I confess, the Comparison is

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not good) because they be made according to Law and Justice; according to the Fundamental Laws of the Land, wherein the Prerogative of the Crown hath a part, as well as the Property of the Subject: For if the Propriety of the Subject, as it is, (and God forbid but it should continue) be the second, undoubtedly the Prerogative of the Crown is the first Table of that Fundamental Law, and hath something more imprinted upon it: For if it hath a divinity imprinted upon it, it is God's Anointed; It is he that gives the Powers. And Kings are as Gods on Earth, higher Prerogatives than can be said, or found to be spoken of the Propriety or Liberty of the Subject; and yet they go on hand in hand, and long may they do so, long may they go in that Agreement and Harmony, which they should have done hitherto; and I trust shall be to the last, not rising one above another in any kind, but kept in their own wonted Channels. For if they rise above these heights, the one or the other, they tear the Banks, and overflow the fair Meads equally on one side and other. And therefore I do, and did allow, and ever shall, for my part, desire they may be kept at that Agreement and perfect Harmony one with another, that they may each watch for, and not any way watch over the other. And therefore this being a Care of the Prerogative, as long as it goes not against the Common Law of the Land, it is the Law of the Land, and binds, as long as it transgresses not the Fundamental Law of the Land, being made provisionally for preventing of a Temporary Mischief, before an Act of Parliament can give a Remedy.

And this Condition must be implied, That it must be binding, provided it be according to the Law of the Land. I instance in that Exception that King *James* would take, when a man saies he will do a thing as far as he may with Conscience and Honour; because in Persons of Conscience and Honour, those words are always implied.

That the Wisdom of our Ancestors hath prevented this Mischief; That for a mis-word, a Peer of *England* should lose his Priviledge, being as great as any Subjects that live under a King, that is not a free Prince of the Empire. And the Preamble of a Statute in Queen *Elizabeths* time, the very bent whereof is to take away the dawning of words, without any further Act; which Preamble was read to their Lordships.

And so I conclude, the words were unwisely spoken, because they may be brought to a hard sense, but not Criminal, for none of them swear any thing done in breach of the Law.

I except against my Lord *Kilmallock's* swearing Sir *George Ratcliffe* to be my Eccho, as if he knew my thoughts; and against Mr. *Hoy*, as a party concerned in Interest, though not in name, in a Suit that is or will be brought against me before your Lordships come to the end of the Charge.

I confess Mr. *Waldron's* Testimony makes me stagger, being the only person could make me believe I said the words.

I except against Sir *Pierce Crosbies* Testimony, having been formerly Sentenced in *Star-Chamber*, and I know what Sir *Pierce Crosby* swore there, and that I never Communed with him so far, as to have such a Discourse, as is mentioned, in all my life.

To the Suit in the Castle-Chamber against the Earl of *Corke*, on pretence of breaking an Order of Council-Table. I conceive it had relation to an Order made in King *James* his time, 20. March, 11 Jac. which I desire may be read, (being now produced) as also the Information there exhibited, that so I may justifie my Answer in that point of it; That the

the Suit was not upon that Act alone, but for other matters also; but that was admitted by the Committee. And so the reading of them was waved.

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To that Point of Mr. *Waldron's* Testimony, touching the offering of a Lease to the Person concerned, rendring the half value: I conceive this Circumstance qualifies the words, it being according to Law.

To demonstrate which, the Statue was read.

That no Lease shall be granted, upon which less is reserved to the Lessor (during 21 years) then the moiety of the Lands value.

And so his Lordship concluded his Defence, and the Manager made Reply in substance as followeth.

That this Article proves my Lord of *Strafford's* Intention to subvert the Laws.

Manager.

That the long time spent in maintaining the Jurisdiction of the Council-Board, is the least part of the Article.

That though these words singly, be admitted not to be Treason, yet several words and actions must prove the general Charge, of his endeavouring to subvert the Laws.

To the several Provisoos in that Act of Parliament, mentioned by my Lord of *Strafford*, concerning words, we observe, That the words Charged are only matter of Evidence, to his general Intention, of subverting the Laws. And whereas he says they are not charged in time, the Commons bring this as done long ago, and continuing to this day, if he were not prevented; so they take him *Flagrante Crimine*.

To the Practise of the Council-Table before his time, his Witnesses have proved their proceedings in Cases of the Church and Plantations. But in other Cases we deny it, for it is contrary to Law.

That admitting the extent given by the Instructions to Church-Causes (though the Proclamation hath no such exception.) Yet it comes not to the Case of my Lord of *Cork*, who claimed the thing in question as a Lay-Impropriation; derived to the Crown, by the Statute of Dissolution.

That my Lord of *Strafford* makes this Government Arbitrary, in threatening the Earl of *Cork*, to lay him by the heels, if he went to Law, whereas the Order gave him liberty.

That the Original Order in my Lord of *Corke's* Cause was drawn, with these words put out, concerning *Gwyn's* giving Security, and that justifies my Lord of *Cork's* Testimony.

That notwithstanding my Lord of *Strafford's* justification of his words, That neither Law nor Lawyers should question his Orders. This is to assume an Arbitrary Power; for if his Orders be legal, the Law must justify them, if not, question them.

That the words, Of making an Act of State equal to an Act of Parliament, are proved by my Lord of *Corke*; and those spoken are a confirmation of those before, and expressly within the Article. The latter point thereof recites, that he spake the words at other times.

This altogether justifie my Lord of *Corke's* Testimony, though a single Witness, and prove that my Lord of *Strafford* hath made it a habit to speak such words.

That they have one Witness more, and that is my Lord of *Strafford* himself, who says, He never spake any thing but truth; and said, That he would make an Act of State equal to an Act of Parliament.

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We desire, that for the taking off the Asperſion caſt on Sir *Pierce Croſby*, my Lord of *Caſtlehaven* may be examined, touching the words alledged to be ſpoken in his preſence.

E. of *Caſtlehaven* a Witneſs.

The Earl of *Caſtlehaven* being ſworn and examined touching the ſaid words, Answered, That it is a buſineſs paſt long ago; and but a Table-diſcourſe, and he took not much notice of the Circumſtances: But as he remembers, there fell a difference between my Lord of *Strafford*, and Sir *Pierce Croſby*, within three or four months after my Lords coming over; and that as well as he can remember, my Lord of *Strafford* did ſay, That an Act of State was equal to an Act of Parliament; but he remembers not the occaſion.

Manager.

That the Juſtice of the Order in my Lord of *Corke's* Cauſe, is not material, or whether within the Jurisdiction of the Council-Table, the Charge being, That upon ſuch an Order made, my Lord of *Strafford* threatened the Earl of *Corke* for Suing at Law.

That the Juſtification brought by my Lord of *Strafford*, is an Aggravation, reſtraining Liberty to Sue at Law, to a year, elſe to be concluded for ever.

Whereas my Lord of *Strafford* ſays, he hath ſpoken unwiſely, but done nothing; ſure he that Threatens doth ſomething; and his Actions will appear in the next Articles.

For the Privilege of Peerage, It were to be wiſhed he had known, or remembered it ſooner, in my Lord *Mountnorris* his Caſe.

That though he ſays, Acts of State are to be allowed for temporary proviſion, till an Act of Parliament, yet when things are propounded, and rejected in Parliament, ſhall he ſupply it by an Act of State.

We deſire to examine one Witneſs more.

The Earl of *Strafford* excepting againſt it, as not regular, the Lords Adjourned to their Houſe, to take conſideration of it.

Lord High Steward.

And a little after, returning, the Lord Steward declared their Lordſhips Reſolution, That the Witneſs might be examined; The matter in queſtion, ariſing from what was offered from the Earl of *Strafford's* Defence.

Roger Lotts a Witneſs.

Roger Lotts Sworn, and examined, what words my Lord of *Strafford* gave out, when an Act for Powder would not paſs in the Commons Houſe; and what Act of State was thereupon made.

He Answered, That he had the Honour to be one of the Members of that Parliament that began 1634. and ended April 1635.

That at the Cloſe of that Parliament, my Lord of *Strafford* then Lord Deputy, told the Houſe of Commons, then ſent for up, That they had Voted againſt ſome Bills in the lower Houſe, amongſt the reſt, that of Gun-powder; where it was made Felony for any man to buy, or have any, unleſs he got a Liſenſe firſt for it: That my Lord afterwards told them, That notwithstanding they had Voted againſt it, yet he would make that, and ſome other Bills they had Voted againſt, Acts of State, that ſhould be as good; and ſaid, he heard it was done afterwards, but he doth not know that.

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This Witness is something of Justification of my Lord of *Corke's* Testimony; against which, my Lord of *strafford* hath made some Exception.

And the Lord *Digby* added something for the Justification of my Lord of *Killmallocks* Testimony; against which, my Lord of *Strafford* had likewise excepted.

And so the Reply was concluded.

To the Deposition of *Roger Lotts*; my Lord of *Strafford* Answered,

I had received direction concerning Powder; it being not conceived fit, for Reasons of State, to buy, and have Powder at pleasure, or that that Commodity should be so frequently brought into the Kingdom, and committed to unsafe hands; so in that point, I did but what I was commanded out of many Reasons; which I desire I may forbear to express, it not conducing to my Acquittal or Condemnation.

E. of *Strafford*.

And so the Lords Adjourned.

The

The Sixth day.

Saturday, March 27. 1641.

T H E
Fifth Article.

The Charge.

Article 5.

That according to such his Declarations and Speeches, the said Earl of Strafford did use and exercise a Power above, and against, and to the Subversion of the said Fundamental Laws, and Established Government of the said Realm of Ireland, extending such his Power, to the Goods, Free-holds, Inheritances, Liberties, and Lives of His Majesties Subjects of the said Realm; and namely, the said Earl of Strafford, the Twelfth day of December, Anno Domini 1635. in the time of full Peace, did in the said Realm of Ireland, give, and procure to be given, against the Lord Mountnorris (then, and yet a Peer of the said Realm of Ireland, and then Vice-Treasurer, and Receiver-general of the Realm of Ireland, and Treasurer at War, and one of the Principal Secretaries of State, and Keeper of the Privy Signet of the said Kingdom) a Sentence of death by a Council of War, called together by the said Earl of Strafford, without any Warrant, or Authority of Law, or Offence deserving any such punishment. And he the said Earl, did also at Dublin, within the said Realm of Ireland, in the month of March, in the fourteenth year of His Majesties Reign, without any Legal or due Proceedings, or Trial, give, and cause to be given, a Sentence of Death against one other of His Majesties Subjects, whose name is yet unknown; and caused him to be put to Death in Execution of the same Sentence.

Manager.

THe Manager began to open this Article, shewing, That though my Lord of *Strafford* insisted on it, That whatever his words were, his Actions were not against Law. This Article comes properly to reply to that Answer, It charging him with exercising of a Tyrannical Power over the Person of a Peer of that Realm.

And

And first, It was desired that the Sentence of Death against my Lord Mountnorris, might be read, which was attested on Oath, to be that which was delivered by Mr. Secretary Windebanck, upon the Commons humble Suit to His Majesty, for His leave, to have a Copy thereof, That the Papers concerning my Lord Mountnorris, might be delivered into the House, occasioned upon my Lord Mountnorris his Petition to the House in that behalf.

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The Sentence was read.

Reciting first, His Majesties Letter, July 21. then last, wherein notice is taken of the Respect due to the Deputy and General of His Majesties Army; and of the Carriage of my Lord Mountnorris, holding a Captains place in the Army; in uttering Speeches, inciting a Revenge on the Earl of Strafford, Lord Deputy, and Lord General; and Command thereby given, on receipt thereof, to call a Council of War; and that the Lord Mountnorris should undergo such censure, as the said Council of War should impose, for the Lord Deputies full reparation.

Secondly, That a Council of War was accordingly called; the words are also set forth, and the occasion, as followeth, That within three or or four days after the Lord Deputy had Dissolved the Parliament, his Lordship sitting in the Presence Chamber, one of his Servants, in moving a Stool, happened to hurt the Lord Deputies Foot, then indisposed, through an accession of the Gout, which being spoken of at the Lord Chancellors Table, one said to the Lord Mountnorris, being there present, it was Your Lordships Kinsman, who is one of the Lord Deputies Gentlemen Ushers, that did it.

Whereupon, the Lord Mountnorris publickly, and in a scornful and contemptuous manner, answered, *Perhaps it was done in Revenge of that publick Affront that my Lord Deputy did me formerly.* But I have a Brother that would not have taken such a Revenge.

Thirdly, The Sentence likewise sets forth, That the Lord Mountnorris would not Answer the said Charge negatively or affirmatively, though required by the Council of War.

Fourthly, That thereupon, the Witnesses, for proof thereof, were called, viz. Viscount Moore, and Sir Robert Loftus, who upon Oath deposed the same words, to be so then, and there spoken; and the Lord Mountnorris at last, submitted himself to the Council, protesting, that whatsoever interpretation might be put upon his words, he intended no hurt to the person of his said Lordship; and affirmed, That he would dye before he would give the Deputy and General occasion to give him such a Rebuke.

Fifthly, That for the nature of the offence, It was conceived to contain a Calumny to the Lord Deputy and General, insinuating the affront pretended, in these words of my Lord Mountnorris's, to be given to the said Kinsman, and an Incitement to Revenge; and that if the words had been spoken of the Person of the King, it had amounted to High Treason; which by some rules of Proportion, might be applyed to His Deputy.

Sixthly, That the words were spoken when the Lord Deputy had the Honour to be Apparellled with his own Robes of Majesty and Sovereignty; when part of the Army was in motion, and the Lord Deputy and General present.

Seventhly,

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Seventhly, That the words were adjudged an apparent breach of the 21st Article of the Printed Orders, and Laws for War, dated the 13th of March, 1633. whereby it is Ordered, that no man shall give any disgraceful words of any person in the Army, upon pain of Imprisonment, publick Disarming, &c. And also of the 13th Article, That no man shall offer Violence or Contempt to his Commander, or do any act, or speak any words, to breed mutiny in the Army, or Impeach the obeying of the principal Officer, upon pain of death.

Eighthly, That according to the said Articles, the Counsel do unanimously, with one joynt consent, (not one of us of another Opinion) adjudge the said Lord Mountnorris, for his high and great Offence, to be Imprisoned, to stand from henceforth deprived of all his Places, and Entertainments due, which he holds in the Army. To be Disarmed, to be banished the Army, and disabled from ever bearing Office. And lastly, to be Shot to death, or lose his Head at the pleasure of the General.

Given at His Majesties Castle at Dublin, December 12. 1635.

Valentia Cromwell.

Manager.

This Sentence of Death against a Peer, was pronounced by Martial Law, against the fundamental Rules of Law, without Trial, Answer, or Hearing; That though my Lord of Strafford owns it not, yet he made relation of the Injury to His Majesty: His Majesty did justly direct, that my Lord of Strafford should have just reparation. That my Lord of Strafford produceth the Witnesses, refused to let my Lord Mountnorris Answer, though he demanded the benefit of the Law; owns it in his own Person, for he said, (treading on our Foot) and an Injury done to us.

And whereas some would have mitigated it, and found him guilty of the first Article, He himself pronounceth it, both or none.

The whole proceeding was but half an hour; no notice was given before-hand, and my Lord Mountnorris checked, for desiring to cross-examine.

My Lord Mountnorris produced as a Witness; some Exceptions were taken against him by my Lord of Strafford, but were over-ruled.

Lord Mountnorris a Witness.

His Lordship being Sworn, and being directed to declare the whole truth in this business, Answered as followeth:

Upon the 11th of December, 1635. I was warned by a Pursevant, late at Evening, to attend my Lord Deputy in the Council-Chamber, at a Council of War next morning, by Eight of the Clock.

Coming thither accordingly, I found many of the Council, and Captains of the Army; and having conferred with several of the chief of them, and with my Lord Valentia Cromwell, and others, they said, they knew not for what that Council of War was summoned; after a whiles stay, my Lord Deputy came into the Room, and sat down at the Boards end, and commanded the rest to sit down; where my self, that had the Honour to be His Majesties Vice-Treasurer, by His Grace and Goodness, sate in my place: After all were set, my Lord Deputy expressed, he had called that Court to do himself Right and Reparation against my Lord Mountnorris. At those words, I rose up from my place, and humbly presented

presented my self at the Boards end, as the manner is, near his Lordship; who making some Speech, about words uttered by me shortly after the preceding Parliament, which was *April 18. 1635.* and the words spoken within three or four days after, took a Paper in his hand, and out of that, read the words wherewith he charged me; to the effect, I conceive, as they are mentioned in the Sentence. After his Lordship had read them, he demanded of me, whether I would confess them, or deny them. I did humbly desire, I might have the Charge in writing, that I might Answer it by advice of Learned Counsel, the words being charged to be spoken long before, and it was hard to Answer them suddenly. His Lordship Answered, That was not the course of a Martial Court, I must Answer directly. I did several times desire I might have the Charge in writing; and my Lord of *Strafford* answered in the same kind, That I must Answer, whether I would confess, or deny them.

Two or Three of the Counsel of War spoke something also to that purpose; as I remember, the Lord *Cromwell* for one, and Sir *Ch. Coote*, and Sir *John Burlacy*; who intimated, that the manner was, I must confess them, or deny them. Standing a while silent, my Lord Deputy said, He thought they must proceed against me as a Mute; for he will not Answer, and therefore they must take them for granted. I said over again what I had said before, and desired I might have my Charge in writing; and that I might have Advice of Counsel, that I might be used as a Peer of the Realm, and an Officer of the Crown; and still his Lordship denied, That must not be, It was not the Order of a Martial Court.

I replied, and told the Lord Deputy, I had seen it otherwise in a Martial Court in *England*, between my Lord *Reas* and *Ramzie*, where the Cause was debated by the Advocates in writing. The Lord Deputy told me again, That must not be, I must Answer directly; and hereupon, the Lord Deputy caused His Majesties Letter, dated the last of *July*, to be read; and when that was read, required me to make Answer: I confess, I was amazed at hearing of this Letter, and was much grieved; and with Humility and Grief, expressed on my Knees what Sorrow it had wrought on me; and that I had never willingly Offended His Majesty, or His Laws: And declared, that I had been mis-represented to His Majesty; and those Letters were got by mis-information; and humbly desired a Copy of those Letters, and the Charge, that I might Answer by writing; and that His Majesty might know my Answer before further Proceedings. His Lordship upon that, rebuked me with worse Language than was fit to be used to a meaner man, and not a Peer, that desired but Law and Justice. The Lord Deputy told me, I was not mis-represented to His Majesty; for himself had represented me, and that matter, to His Majesty; and he did not use to mis-represent any thing: And then directly required me, whether I would confess them, or deny them. If not, he would prove them on Oath; and thereupon my Lord Deputy called for my Lord *Moore*, sitting at Board with him, and required him to give his Testimony; who had an Oath given him by the Lord Deputies command, by the Clerk of the Council; and referred himself to what he and Sir *Robert Loftus* had long before put under their hands: Thereupon the Lord Deputy gave that Paper to the Clerk of the Council to read; which was the Paper the Lord Deputy held in his hand, and out of which he had read the Charge: And that being shewed to my Lord *Moore*, he said, to his best remembrance those were the words spoken. Sir *Robert Loftus* was also called in, and he being required to give his Testimony, referred himself

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to that which he and my Lord *Moore* had put under their hands; and being shewed him, with his hand to it, he affirmed it. Then my Lord Deputy asked me, what I could now say, since the words were proved to my face: I humbly told his Lordship, and made solemn protestation, and offered to take my Oath, That I did never speak the words, as I was able to prove by several Witnesses; and desired, That the Lord Chancellor (at whose Table they were spoken) and Judge Martial of the Kingdom, then in Town, might be summoned to give his Testimony for truth, and Sir *Adam Loftus* his Son, and near twenty others; and desired they might be examined in the Cause; and that I was well able to prove, that the words charged to be spoken by me, were not spoken by me, but by others, as to that part that concerns the Affront; but his Lordship refused me to have any examined.

Being asked, whether all the Army was then on the march, as my Lord of *Strafford* had said in his Answer. He Answered,

There was at that time three, or four, or five Companies, I am not able to say how many.

When my Witnesses were refused, and I had made my protestation, that I had not spoken them, and was ready to prove it, (my Lord Deputy Answered, That he knew my Oathes and Protestations well enough) I took Exception to the Testimony of the Lord *Moore*, and Sir *Robert Loftus*, as I might in a Legal way. But my Lord Deputy rebuked me, and spoke in commendation of them; and bid my Lord *Moore* sit down now, and be one of my Judges: And thereupon commanded me to withdraw, which I did, and went out into a Gallery by, where I stayed about the space of half an hour, I think not more, I am sure not an hour; and was then called in, and at the beginning, was required to Kneel as a Delinquent; which I conceived I was not, having endeavoured always to shew my self a faithful Officer.

Then my Lord Deputy commanded Sir *Charles Coote* to pronounce the Sentence, as Provost Martial of *Connaught*; which he did briefly, in effect as in the Sentence: And my Lord Deputy took occasion to make a Speech, and told me invectively enough, (amongst other things) there remained no more now, if he pleased, but to cause the Provost Martial to do Execution. But withall added, That for matter of Life, he would supplicate His Majesty. And I think he said, he would rather lose his Hand, than I should lose my Head; which I took to be the highest scorn, to compare his the Lord Deputies Hand, with my Head: I said, I never did, and hoped I never should, endanger my Head by Offending His Majesties Laws.

I was hereupon commanded to be taken to Prison, by the Constable of the Castle, who took me thence away; what past in the time of my absence, I knew not; but the Articles I was charged with breach of, were not declared, nor I urged to Answer; if I had, I could have Answered, I knew of no such Articles, nor ever saw them, till *June 1636.* published by his own Authority; and made in time of War: And though made for regulating of the Army, yet were never put in practice; And on a Conference with some of the Council of War, I was informed, they differed in Opinion amongst themselves; and some moved, both the Articles might not be pressed; And his Lordship Answered, he would have both or none.

Being

Being asked on my Lord of *Straffords* motion, how long after the Sentence given, he remained a Prisoner in the Castle :

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I was Committed the 12th, and remained until the 18th, and was not released by any Favour of my Lord Deputy, but on a Certificate of the Physicians ; and that not admitted but upon Oath, That I was in peril of my Life ; and a Petition drawn by them that had more care of my Health than my self, being so afflicted in body and mind, with the high Injustice and Oppression I had, that I was extreamly ill ; and was then remitted on Security, given by the Chief Justice in 2000 l. Bond, to be a Prisoner.

Witness.

Being asked on the Committees behalf, whether he was not taken to Prison again ; and how long he continued in Prison for this Cause.

I continued at my House, and was very ill ; and after that several times, was called to the Council-Table by my Lord Deputy ; and an Information exhibited in the *Star-Chamber* for pretended Crimes, which I shall ever desire to Answer in any publick Legal Judicature, rather than live.

Witness.

And I was imprisoned again the 11th of *April* ; being sent for to my House, and found with my Counsel about me, preparing my Answer in the best manner I could ; and the Advice was, I should demurr to that Information, because I stood under the Sentence of death : I was carried by the Constable to the Castle, and brought before my Lord Deputy ; and the said 11th of *April* 1636. was committed close Prisoner ; and there continued till the second of *May* : And I knew no other cause, but that I had (as he said) neglected the Kings Grace ; and had sent my Wife into *England*, and transgressed a Proclamation.

To which I answered, I had not transgressed it ; that my Wife was full of Grief at my Calamities : and I had sent her to save my Life.

Then my Lord Deputy told me, that I had refused the Kings Grace offered me, in not accepting his Pardon ; which I thought not Legal for me to take : And thereupon Committed me.

Being asked on the Lord Lieutenants motion, whether the Council were not present ;

He Answered, Some of the Council were present ; but my Lord Committed me, the Council not speaking a word.

Witness.

Being asked again about the time of his Commitment ;

I was first Committed the 12th of *December*, let go the 18th to my House ; Committed again the 11th of *April*, put out the second of *May* : I was then in great Extremity, and admitted to my House again ; where I lay in a long continuing sickness, and under the hands of Physicians : And the 30th of *January* afterwards, because I sued not out the Pardon, was imprisoned again, and there continued till *March* 1637.

The Lord *Dillon* was called, and after some exception taken by my Lord of *Strafford*, to the examining of him, because he might speak things that amount to an Accusation of himself, the same was over-ruled ; the Committee for the Commons declaring, that they would make no use against him, of any thing he should speak concerning himself. His Lordship was thereupon Sworn, and asked what my Lord of *Straffords* carriage was at the said Sentence, not accusing himself :

Lord Dillon a Witness.

He Answered, That he was present at the Council, on Summons to be there ; and the Council being set, as a Council of War, my Lord of *Strafford* did shew what they were called for ; and did set forth some Injuries he conceived done him by my Lord *Mountnorris*.

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Upon that my Lord *Mountnorris* was spoken to, and much interlocution there was, before he would say he did speak the words, or deny them; and after much debate to and fro, the Witnesses were called in, my Lord *Moore*, and Sir *Robert Loftus*; and they did testifie the words in the Charge, upon Oath; much debate there was; to call every particular to remembrance he cannot at this present, but as near as he can he will, that was before my Lord *Mountnorris* withdrew; and after his withdrawing, and some Speeches to the Council of War, they came to Voting; and in the Voting, there was never a man, to his remembrance, in giving his Vote on both Articles, but did profess he gave it in a confidence, that there should be Mercy extended to my Lord *Mountnorris*; and with an Intercession, that he might find Mercy from His Majesty: And when the Votes were all past, my Lord of *Strafford* stretched forth his right Arm, and protested he had rather have his Arm cut off, or lose his right Arm, than my Lord *Mountnorris* should lose a hair of his Head, or a drop of his Blood, for that cause; and that he would write to His Majesty, to supplicate Him for Mercy.

Being asked on the Committees motion, whether my Lord of *Strafford* did not publish, he had acquainted His Majesty with it, and they were called together to give Reparation of some Injuries done to himself.

He Answered, My Lord made a long Speech at that time, setting forth the Charge, and making mention of His Majesties Letter, and His Majesties Letter was read; and he did understand by my Lord Deputy, it was to give Reparation; but the particular words, on his Oath he doth not remember.

Being asked, whether (some of the Council moving they might proceed on the Article that did not extend to Life) my Lord of *Strafford* did not reply, Nay both.

He Answered, That he remembers very well it was proposed to the Council of War, that they were to judge on both Articles.

And being asked by whom:

He said, he will Ingeniously answer, he believes my Lord of *Strafford* did; but specially to say, who, or in what manner, he cannot.

Being asked, whether the Evidence given against my Lord *Mountnorris*, was not written in a Paper, drawn out by my Lord of *Strafford*; and that the Witnesses referred to that wholly:

He Answered, He did see a piece of Paper in my Lord of *Strafford*'s hand; and believes it was some note for his remembrance, what it was, he knows not; and when the Witnesses were brought in, there was a paper to which they had set their hands of the words spoken.

Being asked other questions successively, touching the pressing of the Councils proceedings on the Article only, that touched not death; and whether my Lord of *Strafford* wished them to proceed on both:

He Answered, He remembers it not so prest on that occasion; nor doth he remember whether such a Provision was made, That the Proceedings should be on the Article that touched not Life.

Being asked, whether any beside my Lord of *Strafford* moved, they might proceed on both Articles.

He Answered, He remembers in the debate, the manner of proceeding was spoken of; and to his best remembrance, by the Discipline and Rule of the Army, it was said, he was to be proceeded against on both.

Being asked on my Lord of *Strafford*'s motion, whether the Earl of *Strafford* did not in plain and direct terms say, He would not be a Judge in that Cause, nor give a Vote by any means:

He

He Answered, He remembers he gave no Vote, and being more than five years since, the special words he doth not remember; but in general, after he had set forth the Injuries done to himself, he profest, he would give no Vote, but left it to the Council.

Being asked on the Lord of *Straffords* motion, whether he did not desire the Council of War, but to proceed as to any other Officer in the Army; and what Sentence they should give, he would not take ill.

He Answered, When my Lord *Mountnorris* was withdrawn he spake not a word, but did when he came in again: He doth not remember the words.

Being asked whether the Army was not a great part of it in *Dublin*, and in motion, and daily exercised, when the words were spoken by my Lord *Mountnorris*.

He Answered, He cannot tell precisely whether the most part was there; but there was a part of the Army there, and they did exercise.

Being asked on the motion of the Committee, whether the Sentence he approved so well of, he thanked them for it.

He Answered, That he doth not remember any special words; but he thinks, in Civility he would do it.

Being further asked, whether, after my Lord *Mountnorris* was withdrawn, my Lord of *Strafford* did not continue in his place, and sit at the Table end amongst the Council.

He Answered, I do really believe he did so.

The Lord *Strafford* confessed he did, when the Votes were delivered; but desired the Lord *Dillon* might be asked, whether he sate only as a party, not as a Judge; and sate bare through the whole proceeding of the Cause.

He Answered, He doth not remember it particularly, whether he sate bare all the while; for it is long ago, and he did not heed it.

The Lord *Ranulagh* being asked, whether he was present at the Lord *Mountnorris* his Sentence; and whether my Lord *Strafford* declared, they were called together to give satisfaction for Injuries done him by my Lord *Mountnorris*.

Lord *Ranulagh*
a Witness.

He Answered, That in this particular my Lord of *Strafford* was Nobly pleased to mention his tenderness of my Lord *Dillon*, least he should be his own accuser, He was pleased to mention something the other day, wherein he had tenderness of him; That he shall be as little fearful to speak the truth in this Cause, as in that, having been required by their Lordships; as presuming he hath done nothing but what he may justifie; That for that particular question, he hath been heretofore examined in some particulars of it; and shall now, with the best of his memory repeat, and offer to their Lordships, according to his weakness, every passage in it.

That he was summoned to appear in the Council-Chamber; and, as he takes it, it was December 12. 1635. That being there, my Lord sate in a Council of War, and he (amongst others) having the Honour to wait on him, my Lord *Mountnorris*'s name being mentioned after he was set at the Board, arose, and stood as near my Lord Deputies Person, as was fit for him, towards the upper end of the Table: And there stood charged with several disrespectful words spoken by him; and the words mentioned in the Censure that was read, were the words; That he was charged to have

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have spoken those words in breach of certain Articles, by which the Army of Ireland was Governed, the 13th and the 41st, That there was much interlocation from my Lord Deputy to my Lord Mountnorris, and returned from my Lord Mountnorris to my Lord; the substance was, That he was ready to give his Charge, That he had violated those Articles, That my Lord Mountnorris desired time to answer by Counsel; and that he might have his Charge in writing. That being not readily granted, he insisted on it, That he might have time to prepare his Answer, but was told, it was contrary to the form of that proceeding; But whether that Objection of the form, came from my Lord himself, or from some other Member of the Board that I heard before named, I cannot possibly say. But thus stands the state of it, my Lord Mountnorris neither confessing nor denying the Charge, my Lord Deputy replied, Sir, If you do neither confess nor deny the Charge, how shall we proceed? The Deputy called on the Lord Moore, and said, What shall we say to this business? My Lord, saith the Lord Moore, what I can say, is under my Hand; That a little time after, a Letter was read from the King, whereby His Majesty was pleased to give direction to proceed in a Martial Court, for Reparation and Honour of the Lord Deputy, on the Complaint and Information given to the King. That my Lord Mountnorris instantly fell on his Knees, expressing a great deal of Grief and Sorrow, and in truth Passion, and had not much to say for himself; and soon after, was bid to withdraw; and being withdrawn, my Lord Deputy said, That as he had complained to the King, so he would expect that Honour from the Board, That his Cause should be taken into consideration, and such Redress given as was fit; He demanded Justice according to the Articles insisted on: And having declared it, there was a silence amongst us for some time; That he was the first that brake that silence; and in as humble manner and terms as he could light upon, did humbly desire my Lord Deputy to give him leave, to ask whether he would give leave to wave either of those Articles; but my Lord said, he would demand Justice on both.

That this being so, there was some Interlocution of discourse among the Council, and in truth he thinks, that he was one of the first that said, that these Articles, and the words, cannot bear so good a construction, but that there may be some danger of a breach upon these Articles.

Being asked whether the words were not represented to the Council of War in a Paper written, and the Testimony given in pursuance of that Paper.

He Answered, That as he remembers, my Lord Moore, having made a return to my Lord Deputy, My Lord, What I can say, your Lordship hath under my hand; he thinks my Lord Deputy said, My Lord, if you deny it, I have it under your hand to shew.

And thereupon (as he remembers) the Clerk of the Council standing by, had direction to draw up some Interrogatories, which my Lord Moore did acknowledge; and Sir Robert Loftus too did affirm, that they were spoken by my Lord Mountnorris, as much as was mentioned in the Paper.

Being asked how many Companies of the Army were then in Town; how many in a Company; and whether they were exercised in a more than ordinary Training; and how many Companies the Army consisted of:

He Answered, That he thinks the Horse-Troops were 40, or 50 at the most; some my Lords own. The Foot-Companies were 50. And of those

those Companies there were (he takes it) two Horse-Troops, besides my Lord's own Troop, and four Foot-Companies; they were called up to guard and attend our Occasions in Parliament, and they did their Duties as Souldiers every day, as indeed my Lord of *Strafford* was careful of well exercising the Army as any General he ever saw; and there are forty Companies of the old standing Army.

Being asked on my Lord of *Strafford's* Motion, Whether my Lord of *Strafford* did not declare he would not give Judgment in the Cause, but Appeal to them as a Suitor for Reparation.

He Answered, That my Lord of *Strafford* held them to the Point of the Articles, demanding Justice on the Articles; that he said sometimes, he would depend on our Judgment in it, and yet he would hold us to the Point of the Articles. And further, that if there were not a necessity of his being there, he would have withdrawn too. But my Lord would not give the Council a latitude to proceed according to the King's Letter for Reparation, but he held them to the Point of the Articles.

Being asked on my Lord of *Strafford's* Motion, Whether he did not tell my Lord *Mountnorris*, when he went out of the Room, that he would not speak a word till he came into the Room again, and whether he did not do it accordingly; and whether he sate bare all the while as a Party, and not as a Judge.

In answer, he desired leave to offer to their Lordships, that he acquainted their Lordships before; that as soon as my Lord *Mountnorris* was withdrawn, my Lord did declare what he the Lord *Renula* had formerly said. But after the Council fell into debate of it, he spake not a word, nor gave any interruption. And he cannot positively say, that he sate bare all the while.

Being asked, Whether this was not in the time of full Peace, and whether any Rebels or Enemies were in the Kingdom.

He Answered, Certainly it was a time of very full and happy Peace.

To prove, that in discourse concerning this Sentence, my Lord said afterwards, He would not lose the Honour or Share of it.

Manager.

The Earl of *Cork* being asked to that purpose.

Answered, That all he can remember is, that the Sentence was publicly read in the *Star-Chamber*, and my Lord said, He would not lose his Share in the Honour of it, but he cannot remember the day.

Earl of *Cork* a Witness.

Lord Viscount *Dillon* asked to that purpose.

Answered, That he happened to be in the *Star-Chamber* that day, by my Lord of *Strafford's* Command, and carried the Sword that day. That the reading of the Sentence he remembers not, but the words he heard, That the Sentence given against my Lord *Mountnorris*, by the Council of War, was a noble and just Sentence, and for his part he would not lose his share of the Honour of it.

The Commons proceeded to that part of the Charge, which concerns the execution of another man by Martial Law.

William Castigatt sworn, being asked several questions touching that part particularly, Whether he knew one executed by Martial Law, and by whom? &c.

William Castigatt a Witness.

He

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He Answered, Yes, his name was *Thomas Denewitt*, and it was last Summer was two years, that he was on the Green, when he was hanged, and they were born in the same Town: He said, he knew not what Martial Law is, but he was hanged on one of the bows of a growing Tree, and he takes it my Lord of *Strafford* was present; he added, that all the Soldiers were there, and the Company; but knows not whether he was condemned by a Jury or no. And he heard that he was hanged for a quarter of Beef, that he, and some of the Company took away.

Lord Dillon a
Witness.

Lord Viscount *Dillon* being asked, If he knew of the Execution of the said Person, whether he was condemned by Martial Law, and whether he was a Suitor to my Lady *Strafford*, and could not prevail.

He Answered, He did not know that man by name that was hanged, but it was by Martial Law. And he, and another noble Lord that sits here, were Suitors for him to my Lady, and she told them, she did endeavour, but could not prevail for a Pardon.

That it was a little before the 500 men went to *Carlisle*, out of *Ireland*.

That he was not present at the Trial, but saw him hanged on the Green at *Dublin* on a Tree, and knows not his name; and he conceives the Provost-Marshal, or the Provost-Marshal's Son did Execution, for they were there both of them. That the Cause was double, as he heard, for which he was condemned; for flying from his Colours, and for stealing some Beef.

Patrick Gough
a Witness.

Patrick Gough sworn, and asked to the same purpose as before.

He Answered, That he remembers about the time of the 500 Souldiers sending to *Carlisle*, and the Army in *Dublin*, this man was executed by the Provost-Marshal's Son, and on a Tree, and that time two other Souldiers were whipt. The voice of the Report was, He was hanged for a quarter of Beef, and running away from his Colours.

Lord *Renula* asked what Answer was given, when a motion was made that this man should be tried at Law.

He Answered, That he was warned to come to a Marshalls Court, and the Messenger came so late, that he came not timely enough to give his Vote in the Court. That he came when the matter was fully heard, and having done his duty to the Lord-Deputy, fate down behind the Chair. That there were some controverted Opinions concerning the condemnation of the man. The Lord-Deputy was pleased to desire his Opinion, and stated the Evidence to him, as it appeared before the Court, which, to his remembrance, stood thus; The party was accused to have stolen some Beef; and charged to have run from his Colours, which was the reason of the parties being called thither, as he conceived. And it was thus, coming to his Lieutenant to demand his Pay (if he be not mistaken, and if he be, he should be glad to be certified by any,) the Officer said, He had it not; then he desired to be Discharged, Then go and be hanged, said the Officer; and thereupon left his Colours, yet left his Musket with his Corporal. That for the Beef, it seems the Fact was clear, that this was when a Regiment of Foot was to be transmitted to *Carlisle*, and were at *Dublin* attending their Transportation hence. That he the said Lord *Renula* was desired to inform himself of the particular charged upon his going from his Colours. The thing in his excuse was, The Officer's bidding him go and

and be hanged, and leaving his Musket: That therefore he, the Lord *Renula*, did the rather advise he should be tried by the Law, than in that Court: That he doth not conceive the Sentence was made certain before he came in, and if he be not mistaken, there is a Noble Peer of this House late in that Council, and he is sure, that he (the said Peer) offered Reasons why he should not die for that Fact, for he heard him argue it so, and that is my Lord *Conway*.

Article 5.

Lord *Conway* was sworn, and asked his knowledge of this.

He Answered, That he hath been asked of this heretofore, and therefore is something more in his memory than otherwise it would have been, for he had almost forgot it, and it is very imperfectly in memory. He remembers that he was at a Council of War in *Dublin*, that there was a man condemned to be hanged, and that it was for such a matter as their Lordships had heard spoken, more of it he doth not remember.

Lord *Conway* a Witness.

And being further asked, Whether any Proposition was made to my Lord of *Strafford*, to have the man referred to a legal Trial, or the Execution deferred.

He Answered, He remembers it not.

And so they closed the Article, observing it to be fully proved in both parts of it, and that it makes good the general Article, of exercising a Tyrannical Government over His Majesties Subjects.

The Earl of Strafford began his Defence.

I humbly conceive my Answer must be allowed me, if I prove clear of Treason, having been debarred of Witnesses.

E. of Strafford's Defence.

My Answer saith, That the Deputies have always exercised Martial Law in time of the Armies march, and divers Articles for regulating the Army printed, according to which divers have been put to death in Peace as well as War.

That the Lord *Mountnorris*, for breach of two of those Articles, was proceeded against by 20 in number, and Sentence of Death pronounced, wherein I was no Judge; and I obtained from His Majesty that no personal hurt befel him, but a few days Imprisonment.

If I had been questioned on my Life for Murder or Felony, I might in extremity have feared (perhaps) but certainly this can by no Law be made Treason, for which only I must answer, being a Crime of another nature.

I trust this will appear no Crime, or such a one as, I hope, His Majesty will grant me a Pardon for, as He hath done to others.

I desire to excuse a Mistake in my Answer, about the whole Armies being at *Dublin*, and I desire in my Answer to have liberty to rectifie a mistake.

I humbly desire the Commission may be read under the Broad-Seal, whereby I am made General of the Army, and Power derived to exercise Marshal-Law, which was read, and this limitation is in it as to the exercise of Marshal-Law, *Si opus fuerit*. And this I observe is according to the practise of all the World in Cases of this Nature.

That the Army in *Ireland* is a standing Army, in the King's pay, and hath, and always had Marshalls, Serjants, Majors, Generals, Provost-M Marshalls, and other Officers.

Article 5.

Manager.

We admit that there is an Army in *Ireland* that is in pay, and distributed in the Country, and hath Officers belonging to it.

E. of Strafford.

The Generals there have from time to time set forth Orders in Print, for the Government of the Army, and the Officers of it, particularly my Lord *Wilmott*, whose Orders are here to be read.

Lord *Wilmott*
a Witness.

My Lord *Wilmott* being examined, confessed there were Orders made for regulating the Army, that he had the Honour to be General four years, and that the Articles offered by my Lord of *Strafford*, and by him viewed, are attested under his Hand, for which he took Pattern from my Lord *Faulkland*, my Lord *Grandison*, and my Lord *Chichester*, and he did it by the Power he had the Honour to hold under His Majesty as General: That yet he used them so sparingly, that neither in that time, nor in the Government of *Munster* (in which he had as large Authority as ever any man had) he never did condemn a man to death in peaceable times, and that the Authority hath been good. That Martial-Law is so frequent and ordinary in *Ireland*, that it is not to be denied, and so little offensive there, that the Common Law takes no exception at it. That he hath lived to see three or four Parliaments there, and they never complained of it. And to Govern an Army without Martial-Law, is impossible, for occasions, in an Army, rise on a suddain, and something must be done on a suddain for example-sake to others.

That Martial-Law was certainly in *Ireland* ever since he remembers, and long before; but it hath been used so sparingly, that in the time of Peace, for his part, he did never know any executed in his time.

Being asked on the Lord *Strafford's* Motion, Whether he hath known Sir *Charles Coote* as Provost-Martial of *Conaught*, and Sir *John Bower* Provost-Marshal of *Leinster*, in time of Peace, execute divers Persons, Rebels, and others, by Martial-Law.

He Answered, For Sir *Charles Coote* he can very well answer, though he had Authority, yet it is out of his memory that he ever executed any. And for Sir *John Bower*, he dwelleth remote from him, that the said Sir *John Bower* hath Authority, and so have many other Presidents, Marshalls of the Army, Provost-Marshalls of every Province, and upon great Reasons for it; for though they be Inferior men, yet the intent of their Commission is but to prosecute those men that cannot be had into the Law, that is, Rebels and Fugitives, and those men he hath heard have been hanged.

Whence my Lord of *Strafford* inferred, That he had done nothing *de Novo*.

That Provost-Marshalls have been always appointed, and executed those Places under the General for the time being.

The Committee admitted that there be four Provost-Marshalls, but deny that they exercise Marshall-Law.

E. of Strafford.

That those Provost-Marshalls have executed divers men to death by Marshall-Law, Rebels and Traytors.

I desire to produce an Order of my Lord of *Faulkland's*, taken from his Book of Entries; but being not proved, nor written with my Lord *Faulkland's* own hand, the reading of it was not admitted, but left to their Lordships Consideration.

To prove the Practise of the Provost-Marshalls.

Sir Adam Loftus being asked concerning the Provost-Marshalls executing of Marshall-Law before my Lord of *Strafford's* time, and on what men.

He Answered, That it is most apparent, in all times, since he can remember, Martial-Law hath been executed, that's undoubted.

But it was on Rebels and Out-Laws, and he hath known no other, but such, executed by Martial-Law.

Lord Robert Dillon being asked to the same purpose.

Answered, He hath heard the Provost-Marshalls have taken and hanged men by Martial-Law in time of Peace, since the beginning of King *James* his Reign, that of Rebels and Out-Laws there is no question.

My Lord of *Strafford* desired to compare his Orders with those of my Lord of *Wilmotts*.

And they were compared accordingly in divers Articles.

His Lordship produced a Copy of His Majesties Letter, attested to be a true Copy by *Charles Gibson*.

Which was read, being the Letter recited in the Sentence of my Lord *Mountnorris*.

I observe, That the Sentence of my Lord *Mountnorris* takes notice that the Army was part of it in motion, and divers Companies daily exercised, and that my self was for the most part there present, which shews the truth of my Answer to that Point in part. E. of *Strafford*.

To free my self from the said Sentence, I desire a Letter from my self and Council of War to Secretary *Cook* 13. December, immediately after the Sentence, may be read, to shew that I was a Suitor to the King in my Lord *Mountnorris's* behalf.

But being after the Sentence, and written by himself and the Council of War, for extenuating of the Fact, the reading of it was over-ruled.

I conceive my Lord *Renula* and Lord *Dillon* made it appear, that I declined giving Judgment in the Sentence. E. of *Strafford*.

But for further proof, Sir *Robert Farrer* was asked, Whether my Lord of *Strafford* did not declare he would be no Judge, nor give Opinion in that Cause, and whether he sate bare?

He Answered, That he was present at the Sentence, and heard my Lord of *Strafford* say, that he would give no Judgment, nor have to do with the business concerning my Lord *Mountnorris*, and he sate a good time with his hat off.

Being asked on one of the Committees motion, touching his pressing of both the Articles.

He said, He acknowledged my Lord did require Judgment on both Articles, and yet sate silent at the time they were upon the Sentence.

Being asked, Whether my Lord of *Strafford* did not desire them to regard him no more than an ordinary Officer, and do no otherwise than in reason and judgment they should think fit.

Article 5.

He Answered, My Lord of *Strafford* said these very words, That they should not look upon him, but go to the Cause according to their Opinion directly.

And being asked, Whether my Lord *Mountnorris* was a Captain of the Army.

He Answered, Yes, and the Council did admit it.

Sir *George Wentworth* being asked to the same purpose as Sir *Robert Farrer*.

He Answered, He was present at the Sentence, and heard my Lord of *Strafford* say publicly, He did not sit there as a Judge, and that he would give no Vote in it.

Being asked, Whether my Lord of *Strafford* did not tell Sir *George Wentworth* that he should give no Vote in it, because he was his Lordships Brother.

He Answered, Yes, and he gave no Judgment upon that reason; that my Lord of *Strafford* did publicly bid them all look on him as a private man, and sat by as a Suitor, not as a Judge, and put off his hat at the beginning to speak, and sat uncovered all the while, till Sentence was pronounced.

To shew that my Lord *Mountnorris* was enlarged by me presently after, I here produce the Warrant Dated 18. *December*, though indeed he was released 15. *December*.

The denial of my Lord *Mountnorris*, to examine Witnesses, was by my Lord *Cromwell*, Sir *Charles Coote*, Sir *John Burlacy*, not by me; I sitting by as a private party: For this I refer to my Lord *Mountnorris*'s own Deposition, and my Lord *Renula*'s.

To prove it further, Sir *Robert Farrer* was asked touching the denying of further time and Council.

He Answered, He cannot tell who denied him, he remembers my Lord *Cromwell* spake something, but knows not whether to that effect.

Sir *Robert Farrer* a Witness.

Sir *Robert Farrer* being asked on one of the Managers Motion, Whether before their coming together they did know the occasion of their meeting.

He Answered, He did not, he was warned to attend, and did not know the business till he came thither.

E. of *Strafford*.

I did never Communicate it to any man, till I brought the Letter, because I was resolved to speak of it to no man living; and in conclusion, left it wholly to the Council.

For the words, That I would not lose my share in the Honour of that Sentence; if I spake the words, I meant the Justice and satisfaction done me by that Sentence, being by the prime Officers of the Kingdom.

And whereas it was said yesterday, that though I thought it hard to lay words to my Charge, yet I thought it not hard to lay words to the Lord *Mountnorris* his Charge; there is a difference between laying words to a man's Charge, to Accuse and Condemn him of High-Treason, to loss of Estate, Life, Honour and Posterity, and pressing words to only two days Imprisonment, being only intended to discipline my Lord *Mountnorris*, and teach him to govern his Speech with more modesty.

His

His Defence to the business of Denwitt's Execution.

He confesses his Vote concurred, and thinks he had Authority, and may justify it. E. of Strafford.

He produced the Sentence Dated 13. February, 1638. where his Crimes are set forth to be the felonious stealing of a quarrier of Beef, and running away from his Colours, in breach of the 9th and 6th Articles, for which he was sentenced to Death, according to the use of Martial-Law.

His Lordship opened the Nature of the Offence, being committed at a time when the 500 men were attending to go to *Carlisle*; and the Example might be dangerous, and desired Sir *George Mountnorris* might be asked, Whether *Denwitt* was not convicted to be guilty, adding, that he had been burnt in the hand; and running from his Colours is death by the Laws of *Ireland*.

He produced a Statute of *Ireland*, 20 H. 6. C. 19. whereby it is Enacted, That every man that receives the King's Wages, and departs from his Captain, &c. shall be proceeded against as a Felon.

As also the Statute 7 H. 7. C. 1. The departing of a Souldier from his Colours is Felony, and the Offendor to undergo punishment of Law. And 10 H. 7. all Laws formerly made in *England* are to be in force in *Ireland*, and so that of 7 H. 7. For further clearing whereof, he refers himself to the Council.

One of the Managers did make Reply in substance as followeth :

Manager.

That if this Fact be not Treason, yet it seems to prove his Intention to subvert the Law, which is Treason.

Whereas he hopes for the King's Mercy, so the Commons do as really trust for the King's Justice.

The Commission he insists on, is limited with *Si opus fuerit*; and the King intends Execution according to Law, *Magna Charta*, and the rest of the Laws of *England* being of force in *Ireland*.

There hath been an Army in pay in *Ireland* since *Henry* the Eighth's time, and so there are some in pay here, in *Portsmouth* and *Plymouth*, and yet it follows not *England* must be Governed by Martial-Law.

The Lord *Wilmott* was produced by him, to justify the publishing of Orders, and exercise of Martial Law in *Ireland*. But we Appeal to your Lordships, Whether he gave Testimony of executing any by Martial-Law.

Sir *Adam Loftus* says, There are Provost-Marshalls, and they do use to put men to death, but they are Rebels whom they execute, which squares not with this Case, only that of Sir *Thomas Wayneman* is a full President.

For the King's Letter, it is written on his Information, and if the King's Ministers misinform him, He is just before God and men; and the Letter directs Reparation, as it was fit there should be.

My Lord pretends he was no Judge in the Cause, your Lordships may remember who procured the Letter to proceed, and who sate there to manage the business, though he sate with his Hat off; if he would have been indifferent, he should have left the Counsellors to themselves.

And

Article 5.

And when some moved they might proceed on one Article, he cryed both, and so he was the Procurer of the Sentence, with which he is charged, not with the Voting of it.

He pretends he sate by and said nothing, yet no man talked more at the Sentence than himself.

He proves not the Course of Martial-Law, and there is a Judge-Marshall, to whom, in any proceedings in a Martial way, address should be made, and it was desired he might be called, to testifie how they went about it.

Manager.

Another of the Managers did add, by way of Reply, That whereas my Lord of *Strafford* insists much, as if Martial-Law were part of the same Law of *Ireland*, but the 25 E. 3. is in force there, and that is recited in the Petition of Right in force here, as the ground why Martial-Law ought not to be in *England*, and therefore there is the same ground why it should not be in *Ireland*.

For that Commission he speaks of *Opus est*, is Martial-Law, when there is *bellum flagrans*; but what need was there of Martial-Law in my Lord *Mountnorris* his Case, when he would rather lose his Hand than the Sentence be executed.

For the Orders made by my Lord *Wilmott* and others, there is difference between making an Order in way of terror, for fear of Execution, and putting that thing in execution.

Many Witnesses are produced to prove the practise, but not one speaks in point of Execution, unless upon Rebels and Traytors, and such as would not come into Law, whereas my Lord *Mountnorris* was had into the Law.

Whereas he takes the Example of those before him; the Commons cannot see the Restrictions put upon his Commission for Martial-Law, but in the preceding Deputies time there was a limitation, that the Provost should leave the Souldiers to trial at Law, except in time of War and Rebellion.

The Statute of 20 H. 6. is against him, for it makes the Souldiers running from his Colours Felony, and certainly meant it should be tried by that Law that makes it Felony, which would have given him the benefit of Clergy, not by Martial-Law.

And though he thinks he may justifie it, he falls at last to a Pardon.

He says, He acquainted no body before hand with the business; but if he may give the Interpretation, he will be sure to put a good end to it; if he would not prepare the Council for Justice, why should not the Delinquent be prepared?

The words are pretended to be spoken in *April*, my Lord of *Strafford* procures the King's Letter in *July*, and questions it not till *December*, here is no *opus est*.

The very words of the Order, the Witnesses were examined by our Command, which make it his own.

Manager.

One of the Managers desired that two of the Instructions of former Deputies might be read.

To this my Lord of *Strafford* excepted, as supplemental and dangerous, and not warranted by any other Judicature.

After

Article 5.

After some debate touching the admitting of my Lord of Ely to be examined, to the Course of Martial-Laws in Ireland, being new matter, arising out of his Answer; It was Resolved that he should be examined only to that new matter.

The Earl of Ely sworn, was examined what was the proceedings of the Marshalls Court when he was Judge-Marshall, and how long he had been so. Earl of Ely a Witness.

He Answered, He was 40 years since Judge there, and for the manner of proceeding, There was never any Deputy, or Governor of that Kingdom, but they had a Commission of Martial-Law to be exercised in the time of their Government; but the exercise of that Law was two-fold, one was Summary, the other was Plenary: That which was Summary and short, was committed to the Provost-Marshall, that sought after the Rebels and Kernes that kept the Woods.

These, when they were apprehended, the Provost-Marshall hanged them on the next Tree; and this was in poor Cases, where the estate of the party that prosecutes is not worth 40 s. In the second, which is the Plenary proceeding, there are three Considerations to be had, of the time, the place, and the person; the time must necessarily be in time of War, the place in the Field, and the persons must be such as are subject to the Rule of Martial-Law. And the proceeding was thus; The parties complained, the other appearing, an Information was drawn in writing, Witnesses produced, and reduced in writing, a Sentence given absolutely or condemnatory, and the Party punished or acquitted, and the Warrant directed to the Provost-Marshall to put the Judgment in Execution. But when the Army was dissolved, and every one returned to their own home, Soldiers, Captains, and Commanders; this Power ceased, and was no farther executed; for it had been an extraordinary damage to His Majesty, that by the Martial-Law every one should be tried; for he loses nothing but his life, not his Lands or his Goods, and therefore the proceeding without was so slow and seldom, that he had not remembered any man of quality worth 100 l. or 200 l. in thirty years to have been executed by Martial-Law.

Here the Manager did offer the Instructions given in my Lord Faulkland's time, which Mr. Fitz-Gerard testified to be by him examined with the Original in the Signet-Office, as to the 33. and 34th Articles. Part of the Instructions were read, viz. Manager.

33. Such as are to be brought to Trial at Law, are not to be executed by the Marshal, except in time of War and Rebellion.

One of the Managers observed, That my Lord of Strafford would have Power of Martial-Law over my Lord Mountnorris, but would not execute him; which shews he desires not blood so much as Power of blood; that the Law of all the Peers might be under his Girdle, and he besought their Lordships to consider it. Manager.

Whereas, he said, The blood of their Lordships Ancestors was spent in the Irish Wars; this way, their own blood may be spent in the Peace of Ireland, and Peace of England, &c.

My

Article 5.

My Lord of *Strafford* taking notice of some words, charging him that my Lord *Mountnorris* lost his Offices in that Sentence; In way of Answer said, That they were lost in a Sentence in the Castle-Chamber for Mis-demeanors fully proved, and by himself confessed, and therefore His Majesty disposed of them.

Manager.

To which one of the Managers Replied, That there was no sentence in the Castle-Chamber against him.

And so after some Discourses and Resolution touching the Method of the Proceedings about the next Articles, the House was Adjourned.

The

The First day.

Monday, March 29. 1641.

THE Sixth Article.

The Charge.

That the said Earl of Strafford, without any Legal Proceedings, and upon a Paper-Petition of Richard Rolstone, did cause the said Lord Mountnorris to be disseized and put out of possession of his freehold, and Inheritance of his Manor of Tymore in the County of Armagh, in the Kingdom of Ireland, the said Lord Mountnorris having been 18 years before in quiet Possession thereof.

Article 6.

MR. Glyn opened the Sixth Article, setting forth the Execution of an Arbitrary Power by the Earl of Strafford, contrary to Law, in point of the Estates of His Majesties Subjects, by disseizing and putting the Lord Mountnorris, a Peer, out of Possession of Lands of 200 l. a year, which he had possessed 18 years before, on a Paper-Petition, without any Rules of Justice, during the said Lord Mountnorris his Imprisonment, contrary to an Act of Parliament read the other day, to King James his Instructions, to the directions of His Majesties Proclamation, and the Rules of proceeding in the Kingdom of Ireland.

Manager.

The Decree made in the Cause betwixt Rolstone and my Lord Mountnorris was first offered, the Manager observing, that it was nothing to the matter, whether the Decree were just or unjust, and that it never depended in the Chancery, as is set forth in his Answer.

Thomas Little, the Lord of Strafford's Secretary, being sworn, attested that the Copy produced was under his own hand.

Thomas Little
Secretary.

O o

And

Article 6.

E. of Strafford.

And here my Lord of *Strafford* informed their Lordships, that upon his Defence he would ask Mr. *Little* some questions, desiring their Lordships to remember that he is upon his Oath.

The Decree was read Dated 28. *July*, 1637. whereby for the Reasons therein set forth, and with the assistance of the Lord Chief Justice of the Common Pleas; It was, among other things, Ordered, That *Henry Rolston* should be put into quiet Possession of certain Lands therein mentioned.

Lord Mount-
norris a Wit-
ness.

Lord *Mountnorris* being Examined, Whether he was put out of possession by Vertue of that Order, and how long he had Possession of the Lands?

He Answered, He was in quiet and peaceable Possession from *May* 20. till he was put out by my Lord of *Strafford's* Warrant, *August* 29. 1637. as was written to him from an Agent that was there from the delivery of the Warrant to the Sheriff. That he was all the while the business was in prosecution, till his coming into *England*, a little before his putting out of possession, in prison, under restraint, for not suing out his Pardon, upon the Sentence of the Council of War.

Mr. Anslow a
Witness.

Mr. *Anslow* sworn and interrogated to the same purpose.

Answered, That to my Lord *Mountnorris's* possession of the Lands, he can say only by seeing the Accounts passed by former Receivers, and the Patent my Lord *Mountnorris* had of the Land; but for his being put out of the possession by the Order, he found when he was left in *Ireland*, about a year and half ago he was put out of possession by an Order of my Lord of *Strafford*, and that he being there, could have no Rents paid, *Henry Rolston's* Son being in possession, the Father being dead.

Being asked, Whether a Petition was not preferred for liberty to proceed at Law.

He Answered, It was in his own behalf, for the Land was estated on him by his Father: And that he the Deponent being to pass his Land on the Commission of Grace, *Rolston* Petitioned for it himself; and therefore he the Deponent Petitioned it might be hindred to pass, and that he might have his Right tried legally, but he could get no Answer; the Commissioners saying, They sate not there to question any Lords Estate.

Manager.

The Manager observed this to be the assuming of an Arbitrary Power of Jurisdiction, in a case of Land, without any former President; wherein, if he be justifiable, he may as well, riding on the High-way, determine any mans Estate; and added, That if my Lord of *Strafford* insist on this, they shall prove it not only in this, but in twenty more of this condition on the Reply.

E. of Strafford.

My Lord of *Strafford* desiring they might bring their Proofs at once.

Manager.

The Manager Answered, That they should prove an Act of the same Nature, but of a higher strain, concerning a Peer of the Realm (for he chased such Lions.)

E. of Strafford.

But my Lord of *Strafford* desiring they might be kept to that within the Charge.

His

His Lordship began his Defence in substance as followeth :

I confesse I am Charged with Treason by the Honourable House of Commons, and that is my greatest grief; for if it were not an Arrow sent out of that Quiver, it would not be so heavy as it is, but as it comes from them it pierces my heart through; not with Guilt, yet with Grief, that in my Grey hairs I should be mis-understood by the Companions of my Youth, with whom I have formerly spent so much time.

E. of Strafford.

If the Decree be just (as it is most just) I hope it will go very far in the Case.

That whereas it is said it was against a Peer, Justice excepts not persons, and I know no Priviledge Peers have in point of possession of Land above common persons.

The Act of Parliament read the other day, against which, it is supposed to be made, I conceive it to be the Statute in H. 6. time, and desire your Lordships to remember, that by the last words, the King's Prerogative is saved.

I have done nothing contrary to the Instructions in King James his time, nor the Proclamation, nor any thing, but according to the Power of former Deputies.

I acknowledge my Answer is mistaken, in saying, the Cause depended formerly in the Chancery, which was not out of cunning, but a meer failing of memory.

I desire my Commission may be read, whereby it will appear I had Power to do that for which I am now questioned.

The Commission was read, whereby he had Authority to proceed *Secundum consuetudines terræ, &c.*

From whence he observed, That having so great a Power, the receiving of a Petition, and giving Relief to a poor body, should not be so great a fault, being at the most, but the exceeding of a Jurisdiction, but by no Construction can be made Treason.

That yet this is no exceeding of a Jurisdiction, but was a Power always in the Deputies before his time, and warranted.

To prove it, he produced the printed Instructions, whereby the Deputy and Council-Table are forbid to meddle with common busineses within Cognizance of ordinary Courts, nor alter possession of Land, nor make private Orders, or Hearings, nor make Injunctions for staying Suits in any Civil Cause.

Which shews, that that course was in practise before the Instructions took it away, (*viz.*) to alter Possessions, to grant Injunctions, &c. To prove by Witnesses, that this Power was always exercised by the Deputy in the nature of a Court of Requests in England.

He offered my Lord *Primate* of Armagh his Deposition, being taken, by reason of his sickness, by vertue of an Order of their Lordships; but for that the Commons had liberty by that Order to cross-examine, and yet had no notice thereof, or of the Depositions so taken; the using of these Depositions was waved, after much debate, till the next day, in the mean time the Commons may cross-examine.

Article 6.

Henry Dillon asked, Whether Petitions have been usually preferred to the Deputies, and in how many Governors time he hath known it to be so, That these Paper-Petitions have been preferred.

He Answered, His Father had a Lease during his own life and his Wives, and the longer liver of them, and fifteen years after to his Executors and Administrators, which he the said *Henry Dillon* (being come to full age) enquired into; and looking upon his Fathers Evidences, he found a business there depending between Sir *Patrick* Plaintiff, and his Father Defendant, before my Lord *Chichester*, in the time of his Government; and he found several Orders under my Lord *Chichesters* Hand in that Cause, that he being Executor to *Maurice Fitzgerald*, and having occasion to peruse his Writings, to see what Debts were due to him, he found among them several Orders of my Lord *Grandison's* time, one Petition of *Fitzgerald*, as well for Debts as for Land. That in the time of my Lord *Faulkland* he observed, and hath seen several Orders made by his Lordship, and one made on behalf of his Sister *Mary Dillon*, for a Portion paid by his Father, and he recovered the portion, and received the Money.

That in the time of my Lord of *Corke* and Lord of *Elyes* being Governors, there was a Petition preferred against him, by my Lord of *Longford*, for a Horse taken by him the said *Henry Dillon*, as Sheriff of the County of *Longford*, pretending it to be a stray, and belonging to His Majesty, and triable, as he conceived, in the Exchequer, and that he did appear, but my Lord of *Longford* died before Examination.

Being asked, Whether the Causes were before the Deputy alone, or the Deputy and Council.

He Answered, That in the time of my Lord *Chichester* he knows not whether they were before the Deputy alone, but he found only my Lord *Chichester's* Hand to the Orders. In my Lord *Grandison's* time he saw his Hand only, but where the Causes depended he knows not.

But that in my Lord *Faulkland's* time, was only by my Lord-Deputy: That of my Lord *Corkes* and Lord of *Elyes*, he remembers not whether it was before their Lordships and the Council; but the way he was called to Answer was by Pursivant, before he had notice of the Suit.

Being asked, Whether Examinations were taken.

He Answered, That in the Case of his Sister, he conceives there were Examinations taken upon Oath.

And that in the Cause before my Lord of *Corke* and Lord of *Ely* the Attachment was under the Hands of the two Lords Justices alone.

Being asked on the Managers motion, Whether he hath any of those Orders to shew.

He Answered, He knows not whether those in my Lord *Chichester's* time were delivered to my Lord *Dun*, on composing the Difference, or in his Custody.

Robert Lord Dillon was asked, What he heard my Lord *Grandison* say in maintenance of this Judicature by my Lord-Deputy alone.

He

He Answered, That he heard my Lord *Grandison* himself say nothing of it, but he heard by others, that he pretended to it as a Judicature belonging to the Sword.

Being asked what he hath known of the practice of this Court before the Lord Deputy alone, before how many Deputies; and upon what occasions:

He Answered, That he hath seen divers Orders of Deputies, or Petitions, singly signed by themselves, and no other hand but the Deputies.

Being asked in how many Deputies times;

He Answered, That he hath seen of my Lord *Faulklands*, and Lord *Grandisons*, and to his best remembrance (but he will not peremptorily say it) of my Lord *Chichesters*.

Being asked of the Earl of *Bathes* motion, whether he hath known them to proceed upon Petition for matters of Land.

He Answered, He never knew any.

Being asked on Mr. *Maynards* motion, whether they were Orders of Reference, or by consent;

He Answered, He remembers one more particularly, and it was an Order of my Lord of *Faulklands*, of reference to my Lord *Angier*, that was Master of the Rolls; and was for a Debt.

Being asked on my Lord of *Straffords* motion, whether Sir *Paul Davis* Clerk of the Council, do not ordinarily examine on Oath; and thereupon Causes come to publication.

He Answered, The Clerk of the Council hath a Commission for taking Oath, and wheresoever the Deputy requires, he is to take Oath; but whether *de facto* he took Oath on those former Orders, he remembers not. And whether he takes Oath in things determined by the Deputy alone, he knows nothing of it. But it is the common course of proceedings, when there is an Order for an Attachment, an Oath is taken of course, that the party is in contempt.

Being asked on Mr. *Whitlocks* motion, how anciently Commission hath been granted to the Clerk of the Council to take an Oath.

He Answered, He doth not know; but knoweth, that since he had the Honour to sit at the Board, they have had them, and that is 12 or 13 years.

Being asked whether he hath known in matters of Equity, or Title of Land, any determination by any other Deputy alone; And whether my Lord of *Strafford* hath not done it in many Cases:

He answered to the first, That he doth not remember any particular Case of it: To the second, That he never knew my Lord of *Strafford*, with his Remembrance, meddle with matters of Law; but for matters of Equity, to his Remembrance he hath.

And this my Lord of *Strafford* confessed, this being in the Court of Requests is to the *Chancery*.

To prove that the Clerks of the Council have power to examine on Oath, an Order was read to the Lord Chancellor from the Lord *Faulkland*, for drawing up a Commission to enable Sir *William Usher* for taking Affidavits, and ministring Oaths in all Causes wherein the Lord Deputy or the Board, &c.

Article 6.

E. of Strafford.

His Lordship came to shew that the Instructions were so much mistaken, that they were never observed by the Deputy, Judges of Assize, Presidents of Provincial, &c. nor could the poor *Irish* be debarred from remedy on Petitions, without occasioning an universal out-cry, being not acquainted with Legal forms, and beggarly; and the man that came against my Lord Mountnorris, was *in forma Pauperis*.

To prove this, my Lord of Straffords Book of Entries was mentioned, and an Order of my Lord Faulklands made in June 1629. which is after, the Instructions being in 1622. and being affirmed by my Lord Wilmott to be under my Lord Faulklands hand, it was read:

Containing a Petition, which set forth the Petitioners disturbance in his Possession of certain Lands by Sir James Fitzgerald, contrary to a former Order, and assaulting and beating the Petitioner and his Tenants, &c.

And my Lord of Faulklands Warrant thereupon for Sir James his appearance, to Answer the Contempt; and for the Sheriffs keeping the Petitioner in possession.

He produced another Order of my Lord of Faulklands, August 20. 1626. being for Attaching divers persons that had not paid Provisions for the Deputies Household.

He produced another Order made on Walter Dennotts Petition, October 1624. for direction to certain Debtors to pay some moneys due.

Being a Warrant to examine the truth of the Plaintiffs demands; and a Command to the Debtors to pay what's due, or give better Security, else to appear, to shew cause to the contrary; the same being grounded upon Letters out of England in the Petitioners behalf.

He produced an Order of my Lord of Corke, and Lord of Ely, affirmed by the Lord Corke to be under his hand, on Petition of Henry Jawant: The Order being a Reference to the Lord Primate; and to take Order for the Petitioners Relief as by a former Order of Reference was directed.

E. of Strafford.

And whereas it may be objected that these were in Church Causes, or Plantation Causes, His Lordship observed, That these Orders were made by the Deputy and Justices alone, without the Council, though by the Instructions, the Deputy ought not to meddle with such Causes, without the Council.

He then offered to shew, that this Practice of hearing business on Paper Petitions, is used by the Presidents in their Provincial Courts, and by the Judges in their Circuits, by Commissions from the Deputy; whence his Lordship observed, That if the Deputies have Power to Authorize, they have likewise Power to Execute; and he offered to this purpose, my Lord Ranulagh's Answer at Council-Board, under Mr. Mewtis his hand.

Manager.

Here the Manager observed, That my Lord of Strafford is charged with Exorbitant using of the Law, and cannot be justified with others breaking of the Law; besides, it is neither in the Charge, nor in his Answer.

My

My Lord of *Strafford* answered, That he offered this only to shew, that he is no Innovator of the Law, further than others before him; and to shew that the Instructions were mistaken in that point, and could not be observed, nor can they without much detriment to the Commonwealth, yea that they have broken them, and that he only hath observed them.

And so this matter was laid aside, as not fully pertinent to the Charge.

His Lordship in the next place observed, That as the Case stands with the Government and People of *Ireland*, there is a necessity that this Power that hath been thus at all times in the Deputies, should still remain there, for relief of the poorer sort of People, who are not able to undergo the long Circuit of Legal Proceedings, nor are acquainted with them; and must be drawn to it by Degrees; and that the Plaintiff in this Cause was a Suitor *in forma pauperis*; That it is a great assistance to the Merchants, where they may recover their Debts suddenly, and not lose their occasions, and their benefit by increase of Trade; That some Reports being raised, as if he had neglected the poorer sort of People, and not given Redress as former Deputies have done, he advertised it over to His Majesty, and fully informed Him of the Proceedings and Instructions, and desired His Majesties Pleasure; which was declared by a Letter under His Majesties Signet, received *October 6.* the Ninth year of the King, and to himself directed, which was read; Wherein recital is made of the Instructions, 1622. and particularly in the point of Judicature by the Deputies, That it is necessary to uphold such Power, especially for relief of the poorer sort there, as formerly had been used; And Power is thereby to him given, (notwithstanding any former Directions, Proclamation, or Restraint) to hear and determine such Causes as shall be brought before him, according to the Power of former Deputies, yet not to meddle with Titles of Free-hold, except in Cases of Equity; but to refer Title of Free-hold to its proper Judicature, and not to hear Causes where there is Priority in other Courts, unless in case of Appeal for lack of Justice, after due Obedience: Power likewise (the said Rules observed) to call before him any person complained of, and therein to make such Order and Decree as shall stand with Justice, and to cause the same to be put in Execution. Dated *October 5. 9 Car.*

E. of *Strafford*.

He then offered the first Decree in the Cause to be read, that had formerly been read, having relation to this, bearing date *May 23. 1636.*

And the same was read, being Signed *Wentworth. Gerard Lowther, &c.*

Whence his Lordship observed, That the Order was made for Relief of a poor man, where my Lord of *Mountnorris* had by Violence, and extream hard pressure, possessed himself of Lands worth 200 *l.* a year, never paying out of his Purse above 30 *l.* the rest arising on a Letter procured for Sawing Mills, and by interest at above 20 in the hundred; wherein his Lordship had the Assistance of two Reverend and Learned Judges, the Chancellor that now is, and Sir *Gerard Lowther*, That the Decree is in every part just and equitable; and if he had not given relief, he had been justly censured, That the party is now in Town, and means to complain, and Sue for 600 *l.* more than he is yet allowed.

E. of *Strafford*.

Article 6.

The Committee declared, they insist not on the merit of the Cause, as not being material.

And so my Lord of *Strafford* observed, That he stands justified by the Kings Letter, which makes things differ from what they did formerly, and shew, that the Power was there before, and is now restored.

His Lordship further added, that his Practice in exercising Jurisdiction, was conformable to that Letter, *viz.* That he medled not with Title of Land triable at Law, nor with Causes which had priority of Suit in other Courts; That he referred the business of the Provincial Courts to these Courts, and many businesses to the Judges of Assize, and none determined by him, but upon full Hearing and Assistance of the Judges.

And whereas it is said, my Lord *Mountnorris* was kept in Prison by reason of not Suing out the Pardon on his Sentence pronounced by the Council of War, I will make it appear it was for Contempts, in refusing to answer a Bill Exhibited against him on the Kings behalf, in the *Castle-Chamber*.

Mr. *Slingsby* being asked touching that point;

Answered, That he did constantly wait on my Lord to the *Castle-Chamber*, and there heard the Information of the Kings Attorney against my Lord *Mountnorris* read, and my Lord *Mountnorris* was called to Answer it several times, and was committed to Prison for not Answering it; but he cannot precisely speak to the time, but he thinks he was left in Prison upon that, till my Lords going into *England*.

Sir *Adam Loftus* asked touching the same point, did first make his humble Suit that he might not be Examined in any Cause concerning my Lord *Mountnorris*, for some reasons inducing him thereunto.

Which my Lord of *Strafford* said was, because Sir *Adam* succeeded my Lord *Mountnorris* in the place of Vice-Treasurer; and being required (if that were all) to speak notwithstanding:

He Answered, That he conceives he was Committed for not answering the Information; but the precise day of his Commitment, and the time how long, he cannot well remember.

Being asked, whether he was not brought before the Deputy a day or two before he came away, and refused to Answer, and was thereupon Committed:

He Answered, That it was true.

Being asked on the Managers motion, whether he was not Committed on the old Sentence, and remained in Prison on that;

He Answered, That he doth not know.

E. of *Strafford*.

If I had time to produce the Orders of the *Castle-Chamber*, I could make it appear when my Lord *Mountnorris* was Committed, and how long he continued so; but he was Committed for that Contempt, and remained Committed six Months, I think, before he would Answer; which I would not speak if it were not true.

The Lord *Dillon* called, and asked to the same purpose:

He Answered, That the Judges of the *Castle-Chamber* are by Commission, and that he is not of that Commission. That the Deputy, or Chief

Chief Governour, calls by way of Assistance, such as he pleases. That he heard at Council-Board, my Lord Mountnorris was Committed for a Contempt, in not answering in the *Star-Chamber*; but when it began, or how long, he knows not.

Article 6.

In Execution of this Jurisdiction, I had no private advantage to my self; nothing but trouble was gained by it, no new thing was done, but such as was formerly by all the Chief Governours there; and such as I had special Warrant for from His Majesty. I have observed the Rules that guide others in *Chancery*, and other Courts of Equity, and the Judges in their Circuits: Therefore it can be no Subversion of the Laws; for the same thing done by others hath been Legally done, it differs only in respect of place, being before my self; and so cannot be Treason: And though it might be Illegal here, yet it is according to the Laws and Customs of *Ireland*, by which I am to be judged for all things there done. And the same is done by the Presidents of the *North*, and of *Wales*; who did familiarly receive Petitions from Poor people that cannot seek remedy by a Legal course; and yet it is not Treason in *England*: And it cannot sink into my understanding, how the enlargement of a Jurisdiction should be strained to High Treason; specially being warranted by ancient Practice, and modern Authority, being only according to the nature of a Court of Requests, and not entrenching on the Jurisdiction of Law Courts. And so I hope this will never rise up in Judgment against me as Treason, either in it self, or by way of Application.

E. of Strafford.

The Manager began his Reply, in substance as followeth:

Whereas my Lord of *Strafford* says, This is not Treason; this is the burden of his Song: But this is one of the particulars that prove his design to subvert the fundamental Laws of both Kingdoms; He will not acknowledge a cumulative Treason, he must have a Treason over Shoes and Boots; yet if he will look on it all together, he shall see the horridness of it, and it will prove as great a Treason as ever was presented to a House of Parliament.

Manager.

The Manager opened the Article, and said, they dispute not whether if it had been done in *Chancery*, or other Courts, it had been well done; but it is done by him without Rule of Law; and hereupon he hath drawn to himself an Arbitrary Power.

Whereas my Lord of *Strafford*, to take from himself the Act of Parliament 28 H. 6. enjoyning, That Causes should be referred to the proper Courts, urged the last words, [Saving the Kings Prerogative] We do observe, That when he is Charged with an Exorbitant proceeding, to the destruction of the Law; he flies to the Kings Prerogative for shelter.

That to mention the Kings Prerogative in the face of the Peers of the Realm, and in presence of all the Commons, when he is charged with an Exorbitant proceeding, to the Subversion of the Laws, is but to cast a Scandal upon the Kings Prerogative, and to make it have a worse relish; whereas the Law supports the Kings Prerogative, and the Subject supports it.

When his Answer is charged not to be according to Truth, he casts a Gloſs upon it, from the easiness of his being mistaken; whereas, when he

Article 6. is able to justifie it, he glories in it, as that whereto he must stand or fall.

That the Letters Patents which my Lord of *Strafford* produces, rise in Judgment against him ; for the King hath trusted him *ad custodiendas leges Regni*, and therefore if he hath broken through them, he hath broken his Trust.

He says, It is strange the exceeding of Jurisdiction should be laid to his charge as Treason ; He is charged with the Subverting of the Law, and that's more than the Exceeding of a Power. He read the Instructions to warrant his Act ; and by these the Commons desire to be judged, whether they do not in the Negative say, there shall be no such Proceeding before the Deputy ; and yet he will imply, there have been proceedings to the contrary, which we cannot see.

He justifies his Proceedings by former Deputies, and hath produced *Henry Dillon*, who hath seen several Proceedings in Sir *Henry Bagnalls* time, and others, where Orders have been made by the Deputy alone, but the Orders themselves are not brought ; whereas if they were looked on, and consideration had what results out of them, their Lordships would not have suffered them to be read, without Attestation that they were true Copies. But now whether they be entred or no, or what other Proceedings there were, the Witness doth not know ; and therefore they are no Evidence, nor in truth ought to be offered : And the Witness being asked what the Orders were, he says, one was a Reference, and whether Witnesses were examined, he says, he doth not know.

He produces my Lord *Dillon* ; and we offer to be adjudged by him ; for he says, He knew not any Deputy before my Lord of *Strafford*, that hath intermeddled with matters of Land, except in Plantation and Church Causes ; and this Order is charged to be made by him alone.

He pretends this is a Court, and a Prerogative of the Sword.

We know not whether my Lord of *Strafford* intends to keep it by force ; but whereas he produceth a Commission for giving Oath to the Clerk of the Council ; this Commission needed not if it were a Court, for the Court it self would give an Oath ; and whereas he mentions it to be in the nature of the Court of Requests, we would gladly know, whether there be not Authority in the Judge to give an Oath.

He produces several Orders in my Lord of *Faulkland's* time,

The first is expressly for Plantation Lands ; and there was no determination in Equity, or otherwise.

The second Order he produced in my Lord *Faulkland's* time, was a meer Green-cloth Case, and nothing to this purpose.

The third Order produced, was in a business recommended from *England* to my Lord of *Faulkland*, and such Causes as are out of the Instructions excepted.

The Order in the Lord of *Corke's* time, was but an Order of Reference to the Archbishop ; and a Reference is no Determination, a private person may do as much.

So that we observe, nothing hath been offered to prove, that a Deputy alone hath determined matter of Possession ; and in this we rest with confidence, That none ever did before himself ; and shall therefore desire the Examination of some Privy-Counsellors.

He produced a Letter from His Majesty to proceed in such Causes : But if by Law it ought not to be, then a Letter, and Authority derived thereby, is void, and warrants not Proceeding in the Subject ; the Letter was as just

as might be, being obtained on his Information, to whose Government and Trust His Majesty had committed the Kingdom; and if he mis-inform, he must Answer it. And the Letter is written with caution, giving Authority to proceed in matter of Equity, as former Deputies had done; and if it be not proved that his Predecessors had used such Proceedings, where is his Authority?

He says, he hath proceeded according to the direction of the Kings Letter; that is, he never determined Title of Land but in Equity; and when such Causes have come to him, he hath referred them to Law, which we are forced to disprove that, by offering it under his own hand, that whereas a Nobleman of the Realm, my Lord of *Baltinglas*, had mortgaged to Sir *Robert Parkhurst*, for 3000 *l.* Land of a 1000 *l.* year: when Sir *Robert* had Title at Law, and might as Mortgagor, have entred after the day past, Sir *Robert* prefers a Petition to my Lord of *Strafford* himself, and he without the Council, determines the Possession, and takes it from the Mortgagee, and afterwards he purchases the Lands himself, and lets them for 680 and odd pounds a year.

For my Lord *Mountnorris* his Imprisonment, the Manager said, That when his distressed Lady, the Mother of Twelve Children, Petitioned His Majesty, declaring the great Distress her Husband suffered by the Tyrannical Power exercised over them; His Majesty like a Gracious Prince, referred it to the consideration of the Deputy, That on submission he should deliver him out of Prison. But when the poor Lady presented it with Tears in her Eyes, and cast her self at his Feet, though there was a Reference from His Majesty; yet he, that would at another time shelter himself under the Kings Prerogative, refuses to give so much Respect as to entertain it; and when the eldest Son came, refused to accept it.

Another of the Managers added, That whereas there is a restriction in the Kings Letter, That the Earl of *Strafford* should not meddle with any thing in other Courts, they would shew, that after two Decrees in a Court, my Lord hath on a Petition, Decreed quite contrary; and it was no Beggars Cause, but a Knights, and 5000 *l.* value: That to the Kings Letter they will give all Reverence.

But if my Lord of *Strafford* had found such a constant practice to be proved, he needed no Letter to set up the Jurisdiction that was in him before; That this Letter under the Signet, can give no Countenance against an Act of Parliament; which Orders, That the Deputy shall not meddle with Causes, but remit them to their proper Courts; and no other Exposition can be given of the saving of the Kings Prerogative, but only a reservation of His Liberty to Sue in any Courts,

And for him to seek by mis-information, to procure a Letter from His Majesty, for a Power not warrantable by Law, he conceives it an Abuse of His Majesty, and that makes his fault the greater; and he instanced in the Marquess of *Dublin*, who for procuring Letters Patents under the Great Seal, to exercise a Power against Law, was complained of in Parliament, and had Judgment for it, among other things, of High Treason.

Article 6.

They proceeded to Proof. And first,

E. of Corke a
Witness.

The Earl of *Corke* being asked, whether before my Lord of *Straffords* time, he hath known the Deputy, or Justices alone, determine any matter of Land, in Equity or otherwise;

He Answered, He remembers not any, except in cases of the Church and Plantation.

Lord *Ranulagh*
a Witness.

The Lord *Ranulagh* being asked to that point,
Answered, Never any to his knowledge; having been of the Table two and twenty years.

S. *Adam Loftus*
a Witness.

Sir *Adam Loftus* being asked to the same point,
Answered, He remembers not any; having been a Privy-Counsellor 20 years.

Lord *Mountnorris*
a Witness.

The Lord *Mountnorris* being asked to that point,
Answered, He never knew any, having been a Privy-Counsellor since 14 *Jac.* and lived in *Ireland* 38 years; That he was there all the time of my Lord *Chichester*, or very near; and was so acquainted with his proceedings, that he dare engage himself for all he is worth, that the Lord *Chichester* never put any such Order under his hand.

Earl of *Bath* a
Witness.

The Earl of *Bath* Sworn, and asked to that point;
Answered, That he hath often heard the Deputy in cases of Debt, for relief of poor men, hath proceeded alone; but in cases of Land he never heard of any.

To take off *Henry Dillon's* Testimony, the Manager alledged, That he had been Sentenced at the Council-Board, for speaking untruths.

E. of *Strafford*.

My Lord of *Strafford* desired the Exception might not be made; some Exceptions by him made to Witnesses against him, being not admitted; and that there might be *unum pondus, una mensura*.

Manager.

The Manager Answered, *In eodem genere Mali*. This Exception is not for Extortion, or collateral matters, but for Perjury.

Thereupon his Acknowledgment was read; wherein he confesses he had highly transgressed against the Honour of His Majesty and the Board, in presuming to declare apparent untruths.

And that such an Acknowledgment was made, was testified by Sir *Adam Loftus*, and likewise by the Lord *Dillon*, who shewed their Lordships the occasion thereof.

To the matter of my Lord *Mountnorris* his Imprisonment, it was offered under my Lord of *Straffords* own hand, to shew that it was partly upon the Sentence, *December 24. 1636*.

My Lord of *Strafford* not denying it to be his hand, it was read, being a Reference upon my Lord *Mountnorris* his Petition, and in substance as followeth.

That

That for the Petitioners restraint more than twelve months, he hath no body to blame but himself, that hath all that space lain under a deserved censure of the Council of War, and stood in Contempts, and trifled with the Court of *Castle-Chamber*.

Article 6.

That His Majesties removal of the Sentence hath been often signified, but never sued forth; That the Petitioner did to the same effect, Petition the Lord Deputy in *May* last, and therefore all the Answer that for the present can be given, is, that his most gracious Pardon seeks no man, nor can His Majesty remit all of that Sentence to be applied to the Petitioners benefit, till by his humble suit he procured His Majesties Pardon under the Great Seal, &c. which taking the usual way, and humbly acknowledging the justness of that Sentence, he may have, &c.

A Petition was then read, directed to the Earl of *Strafford* from my Lord *Mountnorris*.

Praying a Warrant for a Pardon under the Great Seal, according to the Law and the purport of His Majesties directions; if his Lordship shall conceive His Majesties Letters (on which the Lord *Mountnorris* relied as sufficient) did not amount to a Legal Pardon.

Then was read my Lord of *Straffords* Answer.

Dublin, January 30. 1636. When the Petitioner shall prefer his Petition for the said Pardon, acknowledging the justness of the Sentence pronounced against him by the Council of War, we shall take his Request into our further consideration.

Wentworth.

Whence one of the Managers observed, That the King directs a Pardon to be drawn; and till the Sentence be acknowledged to be just, no consideration shall be taken, and that the Preamble of the Pardon recites as much; and he would not suffer it to be Sealed till this Acknowledgment passed.

Manager.

Then was produced the Lady *Mountnorris* her Petition to His Majesty, referred to the Lord *Strafford*.

Mr. *Anslowe* Sworn, attested the truth of the Copy; and it was read.

Mr. *Anslowe* a Witness.

Setting forth her Sorrow on behalf of her Husband, suffering in Honour, Health, and Imprisonment, for a word mis-interpreted, and still pursued in the *Castle-Chamber*; and humbly praying a Command for his coming into *England*, &c.

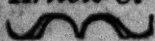
His Majesties Reference to my Lord of *Strafford*, *July 18. 1636.*

His Majesty is pleased, That on such a Submission as the Lord Deputy shall approve of, he shall have his Liberty to come into *England*; where in the Lord Deputy is to take notice, and to give Order therein accordingly.

Mr. *Anslowe* being asked, whether this was brought to the Deputy by the Lady *Mountnorris*; and whether he did not reject it:

He

Article 6.



He Answered, That he was by when my Lady Mountnorris presented the Petition, she was humbly on her Knees to desire my Lord of Strafford to receive it : And he refused absolutely to receive it from her.

They then produced the Order in a Cross Suit, *int. Robert Parkhurst* Plaintiff, and the Lord *Baltinglasse, & al.* Defendants, *Et e contra.*

The Order was read, whereby certain Lands for 3000 *l.* paid at several times to the Viscount, and 300 *l.* more to be paid afterwards, were settled with Sir Robert Parkhurst.

William Brettergh a Witness.

William Brettergh Sworn, was Interrogated touching my Lord Baltinglasse his Possession of the said Lands, and his dispossessing thereof.

He Answered, That he was Solicitor for prosecuting of this Cause, and made Defence of it in behalf of my Lord of Baltinglasse, being then in *England* : But at the time of the Decree, his Lordship was come over ; That his Lordship never made Answer to it ; but when the Cause came to hearing, my Lord of Strafford ordered the Possession of the Land against my Lord Baltinglasse ; and the Possession before was in one Grimble, who was Tenant. And that he could speak many other things concerning the carriage of it.

Manager.

Mr. Glyn desired the Witness might be examined touching my Lord of Strafford's purchase of those Lands ; and offered the Articles whereby my Lord of Strafford leased the Land for 28 years, and at 666 *l.* per annum.

E. of Strafford.

My Lord of Strafford confest thereupon, that he had it, but it was in Trust for a Noble Person.

Manager.

The Manager observed, That whether it was for a Friend, or himself, it is equal ; for a man will do a courtesie for his Friend, as soon as for himself ; And so he concluded his Reply, hoping that their Lordships were satisfied, that he hath introduced an Innovation ; and being so, that he hath exercised a Tyrannical Power over the Estates of His Majesties Subjects.

To such parts thereof as was new matter, my Lord of Strafford replied, in substance as followeth.

E. of Strafford's Defence.

I desire that these matters that come on me suddenly, and being no part of my Charge, may not stick with Your Lordships.

In the business of my Lord of Baltinglasse, I remember little, only that my Lord Baltinglasse had forfeited his Estate to Sir Robert Parkhurst, who had a clear and free Estate in the Land, by Fine and Recovery, and divers Conveyances ; The Lord Baltinglasse desired me to take the hearing of the Cause, to see if I could procure from Sir Robert Parkhurst, a further sum of money : The Order was made with both their likings ; and my Lord Baltinglasse was content to perfect the whole Estate. Sir Robert Parkhurst was in Possession at that time, not the Lord Baltinglasse ; That seeing no cause to relieve him in Equity, they left him to seek relief in other places. That afterwards an Agreement was made, 300 *l.* received by the Lord Baltinglasse ; and after 100 *l.* more got to be

be given, and so there was a full Conveyance and Acquittance from Father and Son, That himself hath no Interest in it, but only of Trust to anothers use.

Article 6.

For that which was offered against the Jurisdiction; the Proofs are Negative, and contradict not what I have offered; And if I might shew my Lord of *Faulklands* Book of Entries, I could produce as much done by my Lord *Faulkland* alone, 1623. Attachments against Body and Goods, Hearings between Parties and Parties, Warrants for Distresses, Warrants to the Sheriff for Possession of Lands, Injunctions to Judges of Assize.

For my Lord *Mountnorris* his Imprisonment, I desire Your Lordships to observe, that His Majesties Reference is, That I shall not set him at liberty without a Submission, so that he may thank himself for his Restraint.

For my Carriage to the Lady *Mountnorris* at the delivering the Petition, I desire Your Lordships to hear a Witness.

Who being asked to that purpose,

Answered, That he was present when my Lady *Mountnorris* was once with my Lord, but knows not whether that were the time in question. It was about 1636. That he was present when her Son delivered one before; which my Lord would receive, but her Son would not deliver the Reference, but a Copy, being so Comanded by his Lady Mother.

That when my Lady delivered it on her Knees, my Lord told her, She had done him the greatest Injury she could devise; and that if she had broke his Head, she should have pleased him better.

Being asked, whether my Lord rejected the Petition;

He Answered, That he cannot certainly remember what was done with it; but my Lord said, he could not do any thing on a Copy.

The Lord Viscount *Dillon* being asked to the same point,

Answered, He was by when my Lady *Mountnorris* came to my Lord to the *Covent-Garden*, with a Petition in her hand, and kneeled to my Lord, but my Lord desired her to rise, and offering the Petition, he said, he would not meddle with any Petition at that time; That my Lord was going abroad, and led her to her Coach in Civility, but received not the Petition.

My Lord of *Strafford* professeth, these things be so long past, that he remembers them not well, nor whether she offered a Copy the second time.

E. of *Strafford*.

The Manager did here observe, That he acknowledged the Civility of my Lord of *Strafford* in this point; but there is one point sticks with him, as higher than any offered, and then their Lordships may think he goes high enough; That there hath been proved my Lord of *Straffords* Tyrannical Proceedings on the Life and Fortune of my Lord *Mountnorris*; One step more, the Manager said he had heard off, and that was his Soul, and that sticks with him more than any thing else, He kept him in Prison till he should acknowledge the justness of a Sentence, which in his Heart he abhorred, and held unjust; That all former Tyrants, when they would proceed against a man, have found out two false Witnesses; but when a man shall be made a false Witness against himself, it is much more Tyrannical.

Manager.

Article 6.

nical. And he wished this Design had kept only in *Ireland*, and had not come into *England*, which he hopes shall be so no more.

And so after a short Reply to the two particulars last mentioned, the Manager closed the 6th Article, conceiving that it remains as was offered, That my Lord of *Strafford* hath determined things contrary to the Commission and Authority obtained from His Majesty.

The Manager added, That for the present the Commons will pass by the 7th Article, and proceed to the 8th, concerning Arbitrary Power over the Estates of the Kings Subjects; And of that, the last part, only concerning the Lady *Hibbott*.

E. of *Strafford*.

But my Lord of *Strafford* professing his disability to endure the Toil; and that he was ready to drop down, in respect of his much sickness and weakness, and desiring their Lordships to turn the case inward, and to see in the Closet of their own Hearts, if there be not reason, that being upon his Life, his Honour, and Children, and all he hath, he should not be prest further; and setting forth how the rest of the day after his going hence, is disposed of.

The House was Adjourned till next day.

The

The Fourth day.

Thursday, March 26. 1641.

THE
Eighth Article.

The Charge.

That the said Earl of Strafford, upon a Petition of Sir John Gifford Knight, the first day of February, in the said Thirteenth Year of his Majesties Reign, without any Legal Process, made a Decree or Order against Adam Viscount Loftus of Ely, a Peer of the said Realm of Ireland, and Lord Chancellor of Ireland, and did cause the said Viscount to be imprisoned, and kept close Prisoner, on pretence of Disobedience to the said Decree or Order.

Article 8.

And the said Earl, without any Authority, and contrary to his Commission, required and commanded the said Lord Viscount to yield up unto him the Great Seal of the Realm of Ireland, which was then in his Custody, by his Majesties Command, and imprisoned the said Chancellor for not obeying such his Command.

And without any Legal Proceeding, did in the same Thirteenth Year imprison George Earl of Kildare, a Peer of Ireland, against Law, thereby to enforce him to submit his Title to the Manor and Lordship of Castleleigh in the Queens Country, (being of great yearly value) to the said Earl of Strafford's Will and Pleasure, and kept him a year Prisoner for the said cause; two months whereof he kept him close Prisoner, and refused to enlarge him, notwithstanding his Majesties Letters for his Enlargement to the said Earl of Strafford directed.

And upon a Petition exhibited in October, Anno Domini 1635. by Thomas Hibbotts, against Dame Mary Hibbotts Widow, to him the said Earl of Strafford; the said Earl of Strafford recommended the said Petition to the Council-Table of Ireland, where the most part of the Council gave their Vote and Opinion for the said Lady; but the said Earl finding fault herewith, caused an Order to be entred against the said Lady, and threatened her, that if she refused to submit thereunto, he would imprison her, and fine her five hundred pounds; that if she continued obstinate, he would continue her Imprisonment, and double her fine every month; by means whereof she was enforced to relinquish her

Article 8. Estate in the Lands questioned in the said Petition, which shortly after were conveyed to Sir Robert Meredith, to the use of the said Earl of Strafford.

And the said Earl in like manner did imprison divers others of his Majesties Subjects, upon pretence of Disobedience to his Orders, Decrees, and other illegal Command by him made for pretended Debts, Titles of Lands, and other Causes in an Arbitrary and extrajudicial course, upon Paper-Petitions, to him preferred, and no Cause legally depending.

The Article was opened by the Manager.

T *Thomas Hibbot's* Petition to my Lord of *Strafford* was read, setting forth;

That Sir *Thomas Hibbot's* being seized of certain Land, conveyed the same to the use of himself for life, after death to the Petitioner in Tail, and divers Remainders over; That Sir *Thomas* of the said Lands became seized for life, and died, the Petitioner being in *England*, and not knowing of the Conveyance. That Dame *Mary Hibbotts*, *John Hoy* her Son, and others, taking advantage of his absence, combined to get the Deeds, touching the Lands, into their hands. That they caused one *Booky* to come into *England* to perswade the Petitioner to go into *Ireland*, and he went accordingly, and was brought to the place of the said Ladies abode, who pretended that she had an estate in the Lands during life. That by this means, before he could be advised, he was drawn to contract for the Lands at half value, and he entred into Bond to perform Agreements. That the Petitioner was more willing thereunto, in respect of a desire to buy other Lands of *John Martin's*, and agreed for it, and was to receive 1800 *l.* of the said Lady, which *Martin* was to receive, and the greatest part paid out at the time and place appointed. That a Deed-Poll was drawn from him to Seal to, and acknowledge a Fine, and deliver Security for great part of the purchase-money. That notwithstanding a Fine acknowledged, and Security given up, the Lady *Hibbotts* refused to let *Martin* have the said money, and so the Petitioner disappointed of the Bargain; and therefore prays, that the Evidences, Deed-Poll, Fine and Bond might be delivered up, and the Agreement discharged, being surreptitiously obtained.

The Lord-Deputies Warrant was subscribed and read, bearing Dated 15. *October*, 1635. viz.

That the Lady *Hibbot*, &c. should on sight thereof, forthwith deliver the said Deeds, &c. to Sir *Paul Davis*, and to appear at Council-Table the 20th of this instant *October*.

Manager.

The Manager observed, That the Petition was preferred in the name of *Thomas Hibbotts*, though, in truth, he had never knowledge of the exhibiting of it, and that the first Bargain with the Lady *Hibbotts* was made 22. *September*, 1635. the Petition exhibited 15. *October*, 1635.

The Decree was read, *John Hoy* attesting it to be a true Copy, wherein the Petition is recited, and the time; and it is set forth, that the Courts of Justice were not then open, that the Petitioner being a Stranger, it was not fit he should long attend. That the Defendants denied the fraud charged: To which the Plaintiff Replied, the Defendants rejoin, time given to examine Witnesses, and a day for hearing set down. That at the

the hearing, it appears the said Lady brake into her deceased Husbands Study, posselt her self of the Deeds and Writings. That *Booky* was sent over (as might be conceived) to circumvent the Plaintiff. That getting him to her house, she contracted with him for 1600 *l.* before he knew of the value; that understanding it to be worth 2250 *l.* he refused to proceed, and then the Lady raised the price to 2500 *l.* That by not payment of a part of it, the bargain with Mr. *Martin* (the cause of his treaty with the Lady) was disappointed. That the Lady pretended an Estate for life in the Lands, when she had only an Estate in part for 99 years, if she lived so long, and no Estate in other parts thereof, which the Plaintiff knowing not of, could not suffer a *Pracipe quod reddat* without her joyning, whereas being but Lessee for 99 years he might.

Article 8.

That it appears by the Deeds that the Plaintiff intended not to sell the Lands, for that he knew them not, as appeared by Circumstances, which the Order doth more particularly set down. That the criminal part should be reserved, to be made use of by the King's Council; that for the civil part, the said Bargain was Ordered to be void. That the Fine not yet recorded, but remaining unreturned, shall be cancelled, if the Plaintiff shall require it. And the Lady to have only such Estate as she had before, and no other. And both Parties are hereunto to yield Obedience, 24. November, 1635. *Adam Loftus* Chancellor, *Ormond*, *Valentia*, *Moore*, *Dillon*, *Sherley*, *Lowther*, *Wainsford*, *Manwareing*, *Tiringham*, *George Ratcliffe*.

The Manager opened the Nature of the Cause, observed the particular parts of the Order, shewing, that there was a Conveyance executed, a Fine levied, though not returned by his Order, no Witnesses examined, though she denies the Fraud, and Arguments are made to convince her by observation of circumstances, and so concluded to overthrow a Bargain in *October* before. That it is pretended to be when the Courts of Justice were shut, though it was heard in full Term, 24. November, 1635. the Term there beginning as in *England*, but adjourned to the 2. of November, and the said Order was contrary to the Vote of the Council-Board. That when that Bargain was overthrown, the Lands were purchased by Sir *Robert Meredith* and others for 3000 *l.* to the use of the Earl of *Strafford*, and he sold them back to the Lady *Hibbotts* for 7000 *l.* That when this Petition was preferred, *Thomas Hibbotts* desired to be gone, and have his money; applies himself to Sir *William Parsons* for advice, Whether he might not withdraw his Petition; he sends him to Sir *George Ratcliffe*, Sir *George* opposes it; the Petitioner goes to my Lord of *Strafford*, and he tells him, Do not withdraw your Suit, 500 *l.* more in your purse will do you no hurt.

Manager.

John Hoy was first produced as a Witness, and sworn.

My Lord of *Strafford* offered to their Lordships Consideration, that the Witness is to have the Inheritance of the Lands, and so swears directly for himself.

E. of Strafford.

But the Manager Answered, That if he shall have the Inheritance, his Lordship knows the terms, he hath paid 7000 *l.* for it. And Mr. *Maynard* added, that if the Decree were of force against him, it were something, but the Land is since paid for; and whether the Decree be good

Manager.

Article 8. or bad, he can neither lose nor win by it, for he comes in as a Purchaser. Yet my Lord of *Strafford* prest it, that the Witness complained, and seeks Relief against the Decree. But the Manager Answered, It was for his Mother, not for himself; though upon my Lord Stewards demand, he confest he was the Lady *Hibbotts* Son, by a former Husband, and that the Inheritance is now in him. But my Lord of *Strafford* observed, if he can recover 3 or 4000 *l.* upon his Oath for his Mother, It is well. And their Lordships admitted him to be examined.

He was asked, What he knew concerning the Agreement between *Thomas Hibbotts* and the Lady *Hibbotts*, for the Purchase of the Reversion of the said Lands, the terms and times.

He Answered, with desire to use his Notes, That *Thomas Hibbotts* about 7. *September* continued two or three days in *Dublin*, and then came to *Castlington*, continued there a full day, and not a word spoken of the Bargain. That the Writings, whereby the Estate was settled, were shewed him, the said *Thomas*, and he read them. That being asked, Whether he would have more satisfaction; He said, He was satisfied; being demanded whether he would live in *Ireland*, and keep his Estate; he said, No, and that he would sell most of it. That the Lady *Hibbotts* desired she might be preferred in the Sale, having interest by Joynture, and she conceived it for life; and demanded what he would ask, that he answered, What she pleased above 2000 *l.* That being asked, Whether he knew the Land, he answered, He knew it, for some years before he was in *Ireland* in Sir *Thomas* his life time, and a Servant of his had shewed him the Land. That she offered 1500 *l.* and he said, For 1600 *l.* she should have it, and so it was agreed. That she sent the Deponent up for 100 *l.* but the said *Thomas* said, He would not use so much, and took only 20 *s.* to bind the Bargain. That on *Monday* following they went to *Dublin* to draw up Articles to perfect the Bargain, and two or three days were spent about it. That he the Deponent tendered the Articles, and he the said *Thomas* excepted against the general Warranty, which he desired might be amended, and then he would perfect them, and it was amended accordingly. That in the interim, the day before Sir *Robert Meredith* went to him, and treated with him, offering, if he would break off, he the said Sir *Robert* would save him harmless, as *Thomas Hibbotts* told him the Deponent. That thereupon *Thomas Hibbotts* flies off, and told him the Deponent Sir *Robert Meredith* offered him 2250 *l.* That thereupon he the Deponent left the Town, and went to his Mother, and informed her of it.

That before the breach of the Bargain, he the Deponent procured a *Subpœna*, to sue the said *Thomas* thereupon, and that the said Lady coming to Town with the Deponent, the said *Thomas* came to her, and being asked the reason, why he would break the Bargain, he answered, Sir *Robert Meredith* had offered so much, and she answering, That she would not give an under-value, because she would not have another get the Reversion. He Replied, That for 2500 *l.* she might have it, which she was content to give; and the Agreement was made. That the said *Thomas* went immediately to Sir *Robert Meredith* to give him an Answer, and satisfied him; That he the Deponent met Sir *Robert Meredith* coming out of his Lodging, and challenged him of this unneighborly courtesie, who said, it is true, he was about it, but the Lady *Hibbotts* had bid more than he, and wished her much joy of it.

That

That the next day the Articles for the 1600 *l.* were perfected, and a Bond given for 900 *l.* to make it up the Sum of 2500 *l.* and this to be paid in *England* (for there was no motion about Land in *England* from the said *Thomas*.) That two days after he the said *Thomas* went to *John Martin*, who had a little Estate, and treated for the Estate, for which he was to give him 1900 *l.* That the said *Thomas* came back to *Dublin*, and tells the Deponent of it, who had taken a course to exchange 2000 *l.* for him, and was to have near 80 *l.* for exchange of it. That notwithstanding, on Mr. *Hibbotts* return, he the Deponent was content he should have it paid there.

That soon after *Thomas Hibbotts* acknowledged a Fine, perfected a Feoffment, and so passed all the Estate that could be in himself. But the Lady thought it could not be secure without a Recovery; for the said *Thomas* had but one Son, who had no Son, and the life of the man is uncertain; yet before that was desired, *Thomas Hibbotts* saying Mr. *Martin* was willing to receive the money; he the Deponent appointed a day for receiving of it, and paid Mr. *Martin* 1800 *l.* giving Bond for payment of 100 *l.* 16. November, this being 9th of October. That he delivered Mr. *Hibbotts* 60 *l.* and procured a Bill of Exchange to be paid at *Nesson* on sight 40 *l.* That he took up the 900 *l.* Bond, entred into by his Mother, and gave a Bond for payment of 500 *l.* at *Chester* a day following. That the money being sealed up by Mr. *Martin*, it was left there that night, and the next day they were to go to the Lady to enquire if they had sufficient Security, and went accordingly, and carried the Deeds along with them. That the Ladies Council told her, a Recovery was necessary, which might be done the first day of the Term. That he the Deponent desired Mr. *Hibbotts* to stay till the Term, and offered to bear his Charges, but he would not, Winter growing on, and said plainly, He would not stay. That thereupon he the Deponent served him with a Writ he had prepared on the first Bargain. That immediately the said *Thomas* goes away to Mr. *Sambridge*, and informed him, that he had been often with him the Deponent to break the Bargain, and now is served with a Writ, and therefore prayed him to draw a Petition to my Lord-Deputy, which was drawn accordingly. To which the Lady and Deponent had time to Answer till Thursday: That the time was short, and there was a mistake in the Answer; for it was set forth that the Lady had an Estate for life, whereas she had an Estate but for 99 years, if she lived so long. That on this mistake discovered, my Lord-Deputy called for the Constable of the Castle, and commanded the Clerk of the Council to draw a Warrant to commit their Council, till the Gentleman fell on his knees, and openly asked forgiveness. That then they could hardly get Council to plead: That there was a Reply and Rejoynder. And in the interim Mr. *Hibbotts* came to him the Deponent, went to the Master of the Wards, and desired to be dismissed. That Sir George *Ratcliffe* appointed them to attend him, which they did. That Sir George took Mr. *Hibbotts* with him, and on Sunday following the Lord-Deputy being informed of *Hibbotts* consent, on Monday he sent for *Hibbotts*, and wishes him to go on with the Suit, and asked him, What hurt it would do him to carry 500 *l.* more to *England*. The next day being Tuesday, there was no Witnesses examined, though a time was appointed to examine them; for the Clerk of the Council was busie, and could not attend it. That they desired *Hibbotts* might be examined, and they would be bound by his Oath, and his Lordship granted a Warrant for it; and Mr. *Hibbotts* was almost examined, for

Article 8.

for on a Council-day the Order was given to the Deponent. But that very Afternoon my Lord-Deputy came to the Council-Board, and as soon as he was sate, spake to this effect; Here is a business concerning my Lady *Hibbotts*, prosecuted with a great deal of Violence that ever I knew, and an Order procured for the Examination of the Plaintiff; but if any such Order be, or Examination taken, I will have it damned; and this is as much as he can speak.

Being asked, Whether my Lord of *Strafford* did not threaten my Lady *Hibbotts* with Imprisonment, till she performed the Order.

He Answered, That on the first of *January*, after the Decree, my Lord-Deputy sent to the Lady *Hibbotts* house, to require her and him the Deponent to attend him, which they did accordingly, and were called into his Chamber, where was Mr. *Sambridge* of Council with Mr. *Hibbotts*, a Sister of the Deponents, he the Deponent, and some others. That my Lord-Deputy asked them, Why they would not perfect the Re-assurance according to the Order, to which the Deponent offered some Exceptions, drawn up by the Council, alledging, that they could not possibly perform the words of the Order, and that they might perform them as near as might be; they shewed a course that might be observed, but my Lord-Deputy said, He would not be cavil'd withall, he would have the Order of the Board obeyed; and since they juggle thus, his Lordship said, He would have the Orders drawn up, and tendered, and that if they will not perform them, he will commit them to the Castle, where they shall lie a month, at that months end he will send for them to the Council-Board, and tender them again, and if they would not perform them, he will Fine them 500 *l.* and another months Imprisonment, and then tender them again, and if they will not perform then, he will Fine them 1000 *l.* and another months Imprisonment, and so from time to time, till they had performed the Orders of the Board.

Being asked, Whether these Lands were not purchased in the Name of Sir *Robert Meredith*, and others, and to whose use?

He Answered, That he hath the Deeds of the Land himself, and what the Dates are he doth not remember. But he knows the Lands were purchased in the Name of Sir *Robert Meredith* and others, but he cannot speak to whose use, but from Sir *Robert Meredith's* own mouth, for when he the Deponent paid 7000 *l.* to him, he the Deponent was telling him the great advantage he made by this Bargain. In truth, saith Sir *Robert*, the advantage is nothing to me, I receive it with one hand, and carry to the Castle with the other. That the beginning of *December* last Sir *Robert* sent for this Deponent, and told him, He heard he was coming over to complain of such a matter, but desired him the Deponent not to trouble him, for he protested seriously, he had nothing to do with the business, his Name was only used as Sir *Philip Persivals* and Sir *Robert Loftus*, it was meerly to my Lord Lieutenants use.

Manager.

The Manager observed, That when their Lordships have heard this, they will not wonder at the next Witness they shall produce, that a Supream Judge should perswade to continue a Suit, which he would have withdrawn; and that notwithstanding the major part of the Board was against the Petitioner, yet the Order was drawn for the Petitioner.

Mr. Hoj

Article 8.

Mr. *Hoy* being asked to the matter of the Vote.

He said, He was withdrawn when they gave their Vote, but a noble Member of the Board came to his Mother to Supper, and named to him the Deponent every man that Voted for and against her, that he writ down their Names at that time, and there were twelve Votes for her, and nine against her; that he the Deponent was afterwards informed by another then at Board, that the major part of the Board went for his Mother.

Mr. *Hoy* a Witness.

Thomas Hibbotts was sworn, and being asked, Whether there was not a Petition preferred to the Lord-Lieutenant there for breaking off the Bargain between himself and the Lady *Hibbotts*, and answered before he knew of it.

Thomas Hibbotts a Witness.

He Answered, having the Questions dictated by the Clerk, being an old deaf man: That he caused a Petition to be drawn, but not this; that this Petition he knew nothing at all of; that he wished a Petition to be drawn by Mr. *Sambridge*, but it was only that he might have his money, and go into his Country.

Being asked, Whether, after the Petition drawn and answered, he did go to Sir *William Parsons*, and desired to be quit of the Suit, and that he went thereupon to Sir *George Ratcliffe*, and what passed?

He Answered, He sent to Sir *William Parsons*, and he sent him to Sir *George Ratcliffe*, and Sir *George Ratcliffe* said, He should not be dismissed from the Board.

Being asked, Whether my Lord of *Strafford* did not send for him, and tell him 500 *l.* more in his purse would do him no harm.

He Answered, It is true, my Lord wished him to go on with his Suit at the Board, and that no man in *Ireland* should do him wrong, and it would do him no harm to carry over 500 *l.* more.

Being asked, What Sir *Robert Meredith* said to him.

He Answered, That he would bring all the Writings to him the Deponent.

Being asked on my Lord of *Strafford's* Motion, what Fees he laid out.

He Answered, 40 *l.* to Mr. *Sambridge*; and the Manager observed, he was preferred presently after the Bargain was executed.

Being asked, What words were used to the Lady *Hibbotts*.

He Answered, That my Lord-Deputy asked, Will you not perform the Order; If not by such a day, I will send you to the Castle, and there you shall lie a month, and at the months end you shall be brought to the Board, and have 500 *l.* laid on your head, and at another months end 1000 *l.* more Fine, and you shall go back to the place again, and after that a third months Imprisonment, and your Fine increased; your Estate I know is very great, and if it were ten times bigger than it is, I will make it crack.

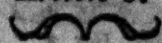
To prove that the major part of the Board was against the Plaintiff.

The Lord *Mountnorris* was asked, Whether he was present at the Council-Table at that time when this Cause was agitated, and which way the major part of the Votes went at that time.

Lord *Mountnorris* a Witness.

He

Article 8.



He Answered, He was there present, and the major Vote went for the Lady, and there were 12 or 11, he cannot possibly say which (though he took it then perfectly into memory) on one side, and nine on the other side.

Earl of Corke a Witness.

The Earl of *Corke* asked to the same purpose.

He first made an humble Suit to their Lordships, that he might not be produced as a Witness against the Prisoner. His Reason is, That when he hath delivered a true Testimony, my Lord of *Strafford* presently pursues him, and lays Imputations and scorns upon him; and therefore humbly prayed to be spared, else that he might have liberty to justify himself.

Manager.

Whence the Manager observed, What it is to fall on Witnesses persons extravagantly, when they produce them, and therefore desired my Lord of *Strafford* might forbear it, being a great disheartening to Witnesses.

My Lord of *Corke* added, That my Lord of *Strafford* accused him to have a Pardon, whereas he knows he hath none. That he is an honest man, and wishes my Lord of *Strafford* could leave the Kingdom with as much Reputation as himself had left it. And for the matter demanded, his Lordship said, He was at the hearing of the Cause, and Voted against the Plaintiff; but whether the major part Voted against him or no, he knows not.

Being asked, What words my Lord of *Strafford* said about making a party in that Cause.

He Answered, That he thinks he spake these words, He did not think there would have been a party against him, for if he had, he would not have brought it to that Table, for the Petition was preferred to himself.

Sir *Adam Loftus* being asked, What Sir *Robert Meredith* told him of his part in the Bargain.

He Answered, That he heard him say, He had no Title or Interest in it, but only his name used in trust, but for whom he did not declare, and that was all he said to him.

Manager.

The Manager added, That they have another Witness to prove that of the majority of the Vote, my Lord of *Ely*, but he is sick.

And so the Manager summed up the Evidence, and observed it to be something, that my Lord of *Strafford* should pitch upon the very sum of 500 l. that Mr. *Hibbotts* had by way of increase. That the Order was made with an examination of Witnesses, on pretence of Fraud, where the Lady denied it on Oath, and that though it was so great a fraud in the Lady to procure a Reversion for 2500 l. which was sold for 3000 l. and afterwards re-sold to the Lady for 7000 l. and so concluded that it is an Arbitrary Government, drawn into my Lord of *Strafford*'s own breast, and the Inheritance of a great Estate taken from the King's Subject without Rule of Law, there being a Fine levied, but being not returned (as the Commissioners are bound to return it) he made an Order it should not be returned, and a Lady threatened with doubling and trebling the Fine, and one of the Feoffees, Sir *Robert Meredith*, confesses it was for my Lord of *Strafford*. And to prove that, Sir *Philip Persival* acknowledged so much.

Mr. Fitz-

Mr. Fitzgarret was Interrogated, What Sir Philip Persival said, who thereupon answered, That Sir Philip had often told him, the Purchase was to the use of my Lord-Deputy, now Earl of Strafford. That he hath had occasion of Conference with him about the Estate, and hath sometimes discoursed with him concerning the Estate wherein his name was used. That he the Deponent might understand how far it concerned him, telling him, that the Estate would one day be questioned. And Sir Philip protested, he never knew of this business till his name was put into it, and he came to Seal the Writings, and that it was to the use of my Lord-Deputy.

Some Questions arising about the number of Hands to the Order, being in all 14.

The Manager observed, That more have subscribed than those that gave their Vote, being a Cause introduced by my Lord of Strafford. That all subscribed the Orders, as well those against them, as those for them, and Appealed therein to my Lord of Cork. The Course being, when an Order is made, to bring it to the Table another day, and take all the Hands of them present; and he added, That their Lordships that are Counsellors know that Course to be used here.

Manager.

My Lord of Corke being asked to that Point.
Answered, That he knows nothing of it.

Lord Corke
a Witness.

The Lord Primate of Ireland his Examination was offered, and was admitted accordingly to be read, being taken 30. March, 1641.

Lord Primate a
Witness.

To the fourth Inter. That when the Major part of the Council-Board go one way, and the Minor part another way; when the Order is drawn up, the Minor part Signs it as well as the Major. The Lord-Deputy alledging it to be the practise of the Council of England, and he himself had done it; but before my Lord of Strafford's coming he never knew it to be so.

Lord Renula being asked to the same Point.

Lord Renula a
Witness.

Answered, That he doth not remember that Order to be of force there till of late years, and that my Lord of Strafford hath declared to them that it is the practise of England, and when the Major part doth subscribe, though others be of different Opinions, they are involved in it, and must subscribe.

The Lord Savil desired he might be asked, Whether he ever knew, that when the Major part did Vote against an Order, they did subscribe it.

The Manager answered, That that's their grief; and though there be no such Course, yet if it concern my Lord of Strafford, he will make it a course.

Manager.

Lord Renula being asked, Whether he were present at the Council-Table when this Vote was given, and what he heard concerning the Vote.

Lord Renula a
Witness.

He Answered, That he was not there, and he heard very little of it; that the most he heard of it, was since the coming of this Gentleman,

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Mr.

Article 8. Mr. Hoy, into England; and that to his best remembrance he heard Sir William Parsons, now Lord Chief Justice, say, He was informed the Major Vote went against Sir Robert Meredith.

And so the Manager concluded the Charge as to the Eighth Article, saying, That here is a Proceeding for a Free-hold, contrary to the Fundamental Laws of the Kingdom, contrary to the Instructions in the manner and measure as their Lordships had heard.

My Lord of Strafford, after some time given for the re-collecting of his Notes, began his Reply in substance as followeth:

E. of Strafford.

I will, with your Lordships noble permission, justifie my self against the Charge of High-Treason exhibited against me.

Having been blamed by the Gentlemen at the Bar for going to matters not pertinent, I shall henceforth keep my self to that within the Charge, trusting that the things wherewith I am not Charged, shall not dwell with your Lordships to my prejudice, but that your Lordships will in your Nobleness and Justice reserve to your selves, till in its proper place and kind, I shall Answer thereunto, conceiving that I am to Answer only to Treason, not to Misdemeanor.

The Charge opened, is a Decree given by the Deputy and Council of Ireland, to the subversion of the Fundamental Laws, and to the bringing in of an Arbitrary and Tyrannical Government.

Whether it be so or no, or whether by any manner of Construction it can be brought as an Argument to convince me of High-Treason, I conceive I am to Answer.

Whether the Decree be in it self just or unjust, is not the question, but will come clearly to your Lordships judgments upon the Petition of the party when she shall sue for her Right. And when it comes to be Charged upon me as a Misdemeanor, I shall give such an Answer as befits me.

There is nothing in this Charge that can be interpreted Treason, for it is but the exercising of a Jurisdiction in the Deputy, which he hath Commission for from His Majesty; and the inlarging of a Jurisdiction in a Judge, I conceive, is not Treason.

The Proofs formerly offered to prove the use and practise of the Deputies (which I need not repeat, your Lordships being Persons of great Wisdom, and once said, always said,) come to my help and assistance in my Charge, the question being upon the same Jurisdiction only, and that in one particular Circumstance I conceive my self stronger in this Cause than in that of my Lord Mountnorris. This Cause being of a Petition preferred to me, but referred by me to be heard before the Council-Board; and the Witnesses say, That though they did not know nor remember, that the Deputy himself heard Causes alone, yet it was frequent for the Deputy to receive Petitions, and refer them to the Board. So that I conceive I have exercised or done nothing, but according to the Practise and Customs of that Kingdom, and consequently cannot be made use of as an Argument that I subvert the Fundamental Laws, or bring in Arbitrary or Tyrannical Government, when I step in the paths of my Predecessors, and the practise of other men in the like Cases. And that I say as to this Point of Jurisdiction.

The next Point I am Charged with is, That the most part of the Council-Board Voted against it; whereas I say in my Answer, the most part Voted for it, and on that I most humbly insist still, and shall make it clearly appear to be so.

For Proof on the other Side, they have only my Lord *Mountnorris* his Testimony, who saies, They had 12 against the Order, and nine for it. And Mr. *Hoy* saith, That an Honourable Person that night told him, 12 were for him and nine against him; so it must all be one man, and one Testimony.

To prove the Major part was for the Decree, there was the Order signed under the Clerk of the Council, a sworn Minister, who could not draw it up without the plurality of Voices, being against the constant practise of the Board to do otherwise.

That this was the practise, I desire my Lord *Primate's* Examination may be read to the second, third, fourth, fifth and sixth Interrogatories.

Those his Examinations which were taken in the presence of the Peers and Commons, taken this morning, being admitted to be read, and the former taken in the absence of the Members of the Commons House, being declared to be suppressed. The said Examinations were read accordingly.

2. To the Second, he knows the use was to prefer Petitions to all the Chief Governors that have been within these fifty years last, but what hath been thereupon he cannot say. This my Lord of *Strafford* observed is to the Jurisdiction.

3. It is the received practise of that Board, that the Clerk of the Council, being a sworn Minister, should draw up the Opinions according to the Major part of the Board.

4. That he hath not known the Earl of *Strafford* to have at any time urged or pressed any Member of the Board contrary to his own Opinion.

5. That he hath heard him divers times profess he had but a single Voice, and that Matters were to pass according to the major part of the Voices of the Board.

Whence my Lord of *Strafford* observed, That the Clerk of the Council, being a sworn Officer, is perjured, else the greater part of the Board was against the Lady *Hibbotts*.

Robert Lord Dillon being asked concerning the use of the Board in the Clerk of the Councils drawing up Orders, according to the major part of the Votes, and what he had observed in this particular Case.

Lord Dillon a Witness.

He Answered, That the Clerk of the Council is a sworn Minister of His Majesty, and by duty of his Place is to take notice of the Votes, and accordingly to draw up the rough draughts of Orders, and to present them to the Board, to see whether they be to the sense of the major part of the Votes. That he was present at the Council-Board when this Cause was Voted, but cannot say, upon his knowledge, it was drawn up according to the major part of the Voices at the Board, for he counted not the Votes; but that was an inducement to him to believe so, because the Clerk of the Council drew it up so; and it is the Order of the Board, when the major part Votes, those that dissent, in regard their Votes are involved,

Article 8.

do commonly Sign, and that he had seen some Sign to the Order which had given Vote against the Decree.

Being asked severally how his Vote passed in this Order, and whether the major part did not Vote it, whether my Lord of *Strafford* did not always submit his Opinion to the major part, and whether in a Case that concerned my Lord *Renula*, there were eight at the Board, and four went one way, and four another, that my Lord of *Strafford* would not over-rule it, but called in another, and desired the whole business might be referred to him; whether before my Lord of *Strafford*'s restraint, this Order was questioned on this Point for want of the major part of Voices, and whether at the signing of it, or any time after, he heard any Councillor except against the Order.

His Lordship Answered, That he gave his Vote for the Decree, that he reckoned not the Votes, but conceives the major part were for it; that he remembers not my Lord urging any man to Vote contrary to his Opinion, or over-ruled it, but was content to let it go: That he remembers not the contrary, but my Lord submitted to the major part of the Votes: That in the business betwixt my Lord *Renula* Plaintiff and one *Ormesby*, he remembers there were but eight men at the Board, whereof my Lord-Deputy made one, and four fell on one side, and four on the other, and my Lord *Renula* was then present, as he takes it, though withdrawn at the instant, and for ought he knows my Lord *Renula* can say something to it: That when my Lord gave his Vote, he said, He would not take the privilege of casting the Cause, but left it to an absent Councillor, and which way soever he inclined, the Cause should go; and afterwards that Councillor did Vote against the Opinion of my Lord-Deputy, and the Order was drawn up so: That he never heard of any Complaint of the Order, nor heard of the business, till he came to the Board: That he doth not remember any Exception taken at the time of the signing the Order, nor at any time after.

Sir Philip
Manwaring a
Witness.

Sir Philip *Manwaring* being asked concerning the matter of the major part.

Answered, That he was present at the Council-Table, and his Vote went for the Decree, and he conceives the major part of the Table did so too, he is very confident of it; and he doth the rather believe it, because he never knew the contrary practise at that Board in any Case; besides, he knows the Clerk of the Council is a very faithful and careful Servant, being a sworn Officer; and it is the duty of his Place to draw up Orders according to the major part of the Voices, and that no member of the Board took Exception at the signing of this Order that he knows.

For the matter of Imprisoning the Lady, my Lord of *Strafford* offered, That he hopes it's no great offence for the Deputy of *Ireland* to say as much to a Subject that's bound to perform the Order of the Board, and doth not; I ought not (under favour,) favour lets in that Case; for if Obedience be not had, it is to no purpose Orders should be made.

For the words concerning Fining of her, I offer to your Lordships Consideration, that one that gives Testimony thereof is Mr. *Hoy*, who is a party interested, and to whom the benefit will accrue of whatsoever shall be recovered; and that your Lordships may remember what a ready story he told, and wronged his memory, to desire to speak out of his Notes, for I never heard one speak more readily, and conceive he is not in this particular so intire a Witness to convince me. That the other Witness

is Mr. *Hybbots* himself, a weak old man, that hath not Judgment sufficient, but says forward and backward, and may be taken any way: Therefore his Testimony is not so strong and binding. That suppose I had said the words, they cannot make a Treason; Fining in cases of Contempts being usual in *Chancery* here, to enforce men to conform to Decrees. However, I stand not charged with it; and when it comes in its proper place and time, I trust I shall make a fair and just Answer in it.

The last thing in the Charge, is the conveying of the Lands to Sir *Robert Meredith*, and others, to my use, which I deny in my Answer, and under favour, deny it still.

For the Witnesses offered,

I except against Mr. *Hoy*, as I must, under favour, as often as I mention it.

That the words spoken by Sir *Robert Meredith*, is only his saying, and offered here as a Report; and when Sir *Robert* speaks for himself, I believe he will say another thing.

That the Testimony of Mr. *Fitzgarrett*, is but what Sir *Philip Percival* said; and when Sir *Philip* comes to be examined himself, I trust Your Lordships will find it otherwise, I having never spoke to Sir *Philip* in all my life, touching the business.

When my Lady *Hybbotts* complains of the Injustice of the Decree, before Your Lordships, I hope I shall clear it in its proper place, but in the mean time it is no part of my Charge; and I dare say they would not offer such a thing in Charge, to my Lord Keeper, or my Lord Chief Justice; or if they should offer it, they know they should have a rebuke; for Lawyers must keep within the limits of the Charge; and therefore in this particular, I may reserve my self, without prejudice in Your Lordships Opinions, till it comes to its proper place; where I hope I shall justify my Carriage to be Honest and Faithful, according to the Trust reposed in me.

His Lordship having finished his Defence, the Manager began his Reply thereunto, in substance as followeth.

That he shall not need to labour much in making a Replication, little being answered to the Charge, which he recited and opened.

That his Lordships Proceedings have in this matter been contrary to Law, they must rest on their Lordships memory, the Act of Parliament cited before, the Instructions, and the Proclamation, the Exercise of a Jurisdiction on the Estate of a Lady, without the least colour of Jurisdiction; whereas if there had been any, it would have been heard of.

That his Lordship answers nothing to his sending for the party Petitioning, bidding him go on with the Suit; and Propheying, that he might have 500 l. more: That perhaps it is not material, whether the Order were just or unjust; and my Lord of *Strafford* will answer only to the Jurisdiction. But we observe, that yesterday he made a great flourish to the justice of a Decree, let the Jurisdiction be what it will; and when he cannot justify that, then he declines it.

That my Lord his Pulse is still beating, that this is no Treason, yet it is an Article to prove and conduce to the General Charge, of subverting the Laws; and though he pretends that these Circumstances, of purchasing the Lands to his own use, and speaking to the party to proceed, and his Threats, are not to the purpose; yet under favour these, and his saying,

The Managers Reply.

Article 8.

ing, when he perceived a great part to Vote against him, (though not the major part, as he says) that he could have kept it in his own hands, do come home to the point, That he hath exercised an Arbitrary Power, specially when it is for his own benefit.

His pretence, that this Cause was heard before the Lords of the Council, and therein differs from that of my Lord Mountnorris, is no answer at all; for the Lords of the Council have nothing to do in matters of Freehold or Inheritance, when it concerns not Plantation, or the Church, or is specially recommended.

That they concur with my Lord Primates Examination, that the Clerk of the Council should draw up Orders according to the major part of the Votes; but what he hath done in this case, they know not; and how far a Deputy might prevail with the Clerk of the Council, they submit: And there is an expresse proof of one of the Counsellors, that there was 11. or 12. against the Order, and nine for it.

And whereas it is said, he is but a single Witness, my Lord of Corke says, though he remembers not which way the major voice went, yet he remembers very well my Lord Deputy exprest those words, concerning the making of a Party; which shews, that something was done that did not agree with his will: And another Witness says, that Sir William Parsons told him, that the major Vote was against the Order.

And whereas my Lord Strafford pretends, that the Privy-Counsellor that told Mr. Hoy, there were more Voices for his Mother than against her, must be my Lord Mountnorris, That is denied; and we desire Mr. Hoy may in that point explain himself.

He hath called Sir Philip Maynwaring, and others, that would have testified the truth to his advantage; but not one of them expresses any thing to their knowledge, but as they believe it; because by the Duty of his place, the Clerk of the Council ought to have drawn it up according to the Votes.

The Threats to Imprison and Fine the Lady; and the kind of Threats are proved by two Witnesses, with this addition by one, That he would crack her Estate; which shew a great fervency in my Lord of Strafford to have the Order performed; and why should he be so earnest, if he had not had some game to play afterwards.

If the Conveyance had not been to his own use, my Lord of Strafford would have provided his Testimony; It being proved in whose name it was, and both they affirm it to be for the use of my Lord of Strafford.

Mr. Hoy being asked, whether the Counsellor who told him how the Votes passed, was my Lord Mountnorris or no;

He Answered, That Sir James Erskyn, since dead, gave him a Note of the Names: And that the Lord Arch-Bishop of Dublin told him presently after, the Vote went on his Mothers side.

Mr. Palmer observed, That the Lord of Strafford draws an Argument, that because there was no complaint of the Order, therefore there was no mistake; and desired Mr. Hoy might be asked, why he made no complaint.

Mr. Hoy being accordingly asked;

Answered, That he was ready to come for England, and to take Ship, and that Evening he went to the Master of the Court of Wards, to take his

his leave of him, and to acquaint him with his going. That Sir *Paul Davis* being there, he and the Master of the Wards, desired him to walk into the Study, and perswaded him against his going, telling him of my Lord Deputies great Power; and that he might as well run his head against a Rock, as have any Remedy against my Lord *Strafford*, as the times go now; and this was very soon after the Decree, and as he conceives, between it and *Christmas* following.

Article 8.

Being asked, whether Sir *Paul Davis* shewed him the Order, and whether it was interlined; and by whose hand:

He Answered, That he was at the Clerk of the Council to have got a Copy of the Order, and saw the Order interlined with a strange hand; and asking whose it was, Sir *Paul* told him, it was my Lord Deputies.

Here my Lord of *Strafford* observed, that it is very ordinary for the Clerk of the Council to bring Orders to the Deputy, who if he sees cause, mends them.

E. of *Strafford*.

Sir *Dillon* being asked, whether any that Voted in my Lady *Hybbots* Case, did tell him which way the major part of the Votes in my Lady *Hybbots* Case went;

He Answered, That a little before his coming out of *Ireland*, speaking of the Charge against my Lord of *Strafford*, and particularly of this Cause, one or two of the Privy-Council said publickly, The major part of the Council was for my Lady *Hybbots*.

To this last part my Lord of *Strafford* answered, with a desire that the Witness might be asked, whether Justice *Parsons* be not Father-in-Law to Mr. *Hoy*; And that this was since his my Lord of *Straffords* questioning.

E. of *Strafford*.

And so the 8th Article was concluded, being his Exercise of an Arbitrary Power over the Estates of His Majesties Subjects; though they have divers other Instances, as in the Case of the Earl of *Ely*, and my Lord of *Kildare*, the prime Earl of that Kingdom.

The

T H E

Ninth Article.

The Charge.

Article 9.

That the said Earl of Strafford, the sixteenth day of February, in the Twelfth year of His Majesties Reign, assuming to himself a Power above, and against Law, took upon him by a general Warrant under his hand, to give Power to the Lord Bishop of Downe and Connor, his Chancelloz, or Chancellors, and their several Officers there-to to be appointed, to Attach and Arrest the Bodies of all such of the meaner and poorer sort, who after citation, should either refuse to appear before them, or appearing, should omit, or deny to perform, or undergo all Lawful Decrees, Sentences and Orders, issued, imposed, or given out against them, and them to Commit, and keep in the next Goal, until they should either perform such Sentences, or put in sufficient Bail, to shew some reason before the Council-Table, of such their contempt and neglect; and the said Earl, the day and year last mentioned, signed and issued a Warrant to that effect; and made the like Warrants to several other Bishops, and their Chancellors, in the said Realm of Ireland, to the same effect.

MR. Glyn opened the Ninth Article, charging my Lord of Strafford with assuming of a Power above Law, in granting of a general Warrant to the Bishop of Downe and Conner, to attach such persons of the meaner sort as should not appear on their Citation, to apprehend their Bodies, and bring them before the Council; an Act so high, that higher could not be, unless it extended to Life, as my Lord Mountnorris his Case; to grant a Warrant at pleasure contrary to Law, to apprehend the Bodies of His Majesties Subjects, that live under the protection of the Law; which if it be made good, will be of great might, and prove the Charge fully.

A Copy of the Warrant being produced, my Lord of Strafford excepted against it, as not to be read, by the proceedings of the Court, being not the Original.

To which the Council at the Bar answered, That that's the way to shelter any Crime, if none but the Original Warrants in such Cases should be admitted; it being no Record that they may repair to it. And their Lordships being desired that a Witness might be heard, what he can say for the

the attesting of it ; after which, it will be proper for their Lordships to judge of the Copy.

Article 9.

Sir James Montgomery Sworn, and asked whether he saw the Original Warrant ; and whether this be a true Copy.

Sir Ja. Montgomery a Witness.

He Answered, He can depose, that he hath seen the Original Warrant, and read it ; and that the Bishop of Derry did shew it himself. That this Copy, he believes, both in matter and words, to be a true Copy ; for he hath another Copy agreeing with this ; and that he knows this Warrant hath been put in Execution many times ; and he himself hath been charged to assist them that have put it in Execution, by virtue of this Warrant.

Thereupon the Warrant was read ; being in effect as followeth.

By the Lord Deputy.

Forasmuch as We have been informed by the Right Reverend Father in God the Lord Bishop of Downe and Conner, that the most frequent Offences against God, and the greatest Contempts against the Ecclesiastical Jurisdiction, are Committed by the meaner and poorer sort of People in that Diocess ; whose faults, for the most part, escape unpunished, by reason the Writ *de Excommunicato Capiendo*, is so long before it can be sued forth, and executed on them, that they remove to other parts, and cannot be found ; or if they be taken, their Poverty is such, that they cannot satisfy the Sheriff, and other Officers Fees, due for taking them on that Writ ; whereby the Officers become negligent, and backward of doing their Duties. We therefore desiring the suppression of Sin, and Reformation of Manners, have thought fit to strengthen the Ecclesiastical Authority of the said Right Reverend Father in God, the Lord Bishop of Downe and Conner, with our Secular Power, and do therefore hereby give Power and Authority to the said Lord Bishop, his Chancellor or Chancellors, by their several Officers by them to be appointed, to Arrest and Attach the Bodies of all such of the meaner and poorer sort, that after Citation, shall refuse to appear before them, or appearing, shall omit or deny to perform and undergo all Lawful Decrees, Sentences and Orders, issued, imposed, and given out against them, and them so Arrested to Commit, and keep in the next Goal, till they shall perform such Sentences, or put in sufficient Bond, to shew some reasons before the Council-Table of such their Contempts, &c. willing all Justices of the Peace, &c. in that Diocess, to be Aiding, &c. as they, &c. Given, &c. Febr. 16. 1636.

Tho. Little.

Mr. Glynn opened the several parts of the Warrant, and offered, that it was expressly against Law, putting their Lordships in mind of the former words, That he would make an Act of State equal to an Act of Parliament : But now he is better than his word ; for he will make an Act of State higher than an Act of Parliament : For whereas by the Law, no Subject of the Kings, in any Ecclesiastical Court, may be taken till he be cited ; and then on disobedience, he is Excommunicated ; and on Excommunication, there is a Writ called, *Capias Excommunicatum*, by virtue of which

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Article 9.

he is apprehended. Now my Lord of *Strafford* issues a Warrant to take him, if he appear not on Citation, breaking through the Law, and making no matter of that, but he will make a Law that extends to the Liberty of the Subject.

And if this had never been put in Execution, it had been all one to the purpose of the Commons; for this shews how, being intrusted with the Kings Law in *Ireland*, he discharges that Trust. But for Execution, they desired Witnesses might be heard.

Sir *James Mountgomery* being asked, how this Warrant was Executed; and the Kings Subjects used under colour of his Authority:

He Answered, That he hath seen several Warrants that have issued under the Hand of the Bishop of *Downe's* Chancellor, sometimes to the Constables, sometimes to his own Apparitors, with their Assistance for to apprehend the persons under-named; That there have sometimes twenty, sometimes thirty, sometimes more, sometimes less names, been put in the Warrant. That he hath known them executed with great cruelty, sometimes wounding, beating, imprisoning them.

Being asked on my Lord of *Strafford's* motion, how long since he knew any thing done upon that Warrant:

He Answered, Since the time of the Warrant granted; and he thinks the Warrant bears date *February* 1636. till of late, much about this time Twelve-month, which was the last time he was charged himself, to be assistant to the Execution of it. That he heard the Bishop of *Derry* had taken up the Warrants in Sommer last, on many and frequent Complaints that had come; and had withdrawn it from the Bishop of *Downe* about *July* last.

Manager.

The Manager closed this Article, observing, that my Lord of *Strafford* not only takes this Power, but gives it over to others; and see how they do execute it over the Kings Subjects; Knights, and men of Eminency must be called to assist; and therefore it was high time to accuse my Lord of *Strafford* of subverting the Laws of *Ireland*.

And so expected his Lordships Answer.

My Lord of Strafford began his Defence, in effect as followeth.

E. of *Strafford*.

Such Warrants have been usually granted to the Bishops of *Ireland*, in times of all former Deputies.

But not satisfied with the convenience thereof, I refused to give such Warrants generally, as was formerly used.

Being informed that divers in the Bishoprick of *Downe* gave not fitting Obedience, I gave this Warrant, being the only Warrant of this kind that I granted; and hearing complaints of the Execution of it, I called it in again.

They have produced only a Copy of the Original Warrant, and what words may be omitted that's in the Original, God knows; and I think, under favour, it would not be an Evidence at the *Kings-Bench* Bar.

And this stands with the practice of former Deputies, to grant such Warrants of Assistance to the Bishops.

The Lord Primate of Ireland, his Examination read.

To the 7th Interrogatory, That he remembers his immediate Predecessor in the Bishoprick of *Meath* told him, he had a Warrant of Assistance from the then Lord Deputy, who was either the Lord *Chichester*, or the Lord *Grandison*; That the Recusants in his Diocese desired it might be so, for the saving of those Charges which would come on them by the Writs *de Excommunicat' Capiendo*.

Robert Lord *Dillon*, being asked whether he had known formerly such Warrants to be granted, and by whom.

He Answered, He hath heard Writs of Assistance have been granted by former Deputies, but he remembers not that ever he saw any.

Mr. *Tho. Little* being asked, whether this Warrant was granted according to former Presidents:

He Answered, That he hath seen one of the Original Warrants before my Lords coming there; and that it was brought to him to draw another by; And going to instance in some Copies seen in my Lord of *Faulkland's* Book of Entries,

The Manager excepted against him, for meddling with a Book formerly over-ruled.

Manager.

Mr. *Little* proceeds, That he hath seen an Original Warrant by which this was drawn, and it was under my Lord of *Faulkland's* hand; and this was made according to that pattern.

Being asked, whether my Lord of *Strafford* did not restrain, and give direction to him not to issue any other Warrant of that nature:

He Answered, There was no more made but this, though divers required them, my Lord forbidding him at all times afterwards.

My Lord of *Strafford* offered his humble request to their Lordships, that in all things that concern the *Irish* Charge, they will please to remember, it was not possible for him to procure any Witnesses in this short time of his Trial, having not liberty till *Friday* was seven night; These things being notorious, and might have been cleared if he had had time.

E. of *Strafford*.

He added, That whether this be a true Copy of the Warrant or no, I cannot tell, but likely enough it is.

That it was moved for by the Bishop of *Downe* and *Connor*, to whom, for some reasons, I was willing to grant it; but being afterwards told by Sir *George Ratcliffe*, that he doubted whether it was Legal or no, I called it in again, and never granted any but this.

That (as appears in the proof) I sent to the Bishop of *Derry*, and desired him to call in the Warrant, and so he did long before this complaint: And thence I infer, that it could not argue my intention to break the same.

Whereas the Gentleman at the Bar said, that I had been better than my word; for I had said, an Act of State should be as good as an Act of Parliament; but here I made an Act of State better than an Act of Parliament. I observe, that he is willing to make me better than my word, when it may be for my disadvantage; but is willing to make me worse than my word,

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word, when by disproving me, he may hurt me. That therefore it befits me to do as well as I can for my self in this case; yet not to take it amiss from the Gentleman, who doth but his duty.

Finally, I conceive it not Treason in me to follow the President and Practice of those which have gone before me, which though it be not altogether so Legal, yet I hope it is not Treasonable. Nor is it Treason to mistake the Law; if it should, there would be more actions of Treason than Trespas in *Westminster-hall*; for I think few understand it, I do not I am sure.

And so I hope this shall never rise up in Judgment against me in its self, or as a concurrent Argument towards Treason.

Mr. Glyn replied, in substance as followeth:

Manager.

What my Lord of *Strafford* is charged with, he confesses to be an Authority above Law; and that it is not justifiable.

Yet he would justifie it by the practice of his Predecessors, wherein the examination of my Lord Primate, offered for Proof thereof, aggravates the Offence, the Warrant therein mentioned, being procured at the Request of the Papists; and perhaps it might be so now: but the Protestants have been Oppressed by it. That was to save the charge of a *Capius Excommunicatum*, which was the Process issued upon Excommunication; but by this Warrant they must be taken on the Citation, down-right Club-Law, having in similitude the Civil Law.

That his own Secretary that made the Warrant, and is as guilty as himself, tells of a President, according to which he made this; Therefore the Copy produced is a true Copy, else he says not truth.

That whereas his Lordship says it is a single Act, and as soon as he had notice of the Illegality of it, he recalled it, and therefore it should not be laid to his Charge: Indeed if it were a single Act, this Answer might be taken; but when in the case of my Lord of *Corke*, his Inheritance was to be determined, and desired the benefit of the Law, did my Lord of *Strafford* suffer the course of Law to go on: Now when he is pleased to make an excuse for himself, he calls it in; but when in matter of Life and Inheritance concerning Peers, Right is demanded, he denies it. If this single Act be compared with other Exorbitant Proceedings, we refer it to Your Lordships Wisdom and Justice, whether it be not a strong Evidence to prove his subverting of the Laws.

After some discourse touching their proceeding on with the 10th Article, for that the same would hold long, the day far spent, and my Lord *Cottingham* and Sir *Arthur Ingram*, material Witnesses for My Lord of *Strafford*, (as he alledged) were absent; for whose Examination his Lordship desired a Commission, Their Lordships Adjourned the House.

The

The Ninth day.

Wednesday, March 31. 1641.

THE
Tenth Article.

The Charge.

That the said Earl of Strafford being Lord Lieutenant, or Deputy of Ireland, procured the Customs of the Merchandise Exported out, and Imported into that Realm, to be farmed to his own use.

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And in the Ninth year of His now Majesties Reign, he having then Interest in the said Customs (to advance his own gain and lucre) did cause and procure the Native Commodities of Ireland, to be rated in the Book of Rates for the Customs, (according to which the Customs were usually gathered) at far greater Values and Prices, than in truth they were worth, (that is to say) every Hyde at Twenty shillings, which in truth was worth but five shillings; every Stone of Wool at Thirteen shillings four pence, though the same were really worth but five shillings, at the utmost nine shillings; by which means the Custom, which before was but a Twentieth part of the true value of the Commodity, was Enhanced sometimes a Fifth part, and sometimes to a Fourth, and sometimes to a Third part of the true value; to the great Oppression of the Subjects, and Decay of Merchandise.

MR. Maynard proceeded to the 10th Article, saying, They had shewed what my Lord meant to do, what he threatned, what he did concerning the Lives of His Majesties Subjects, what advantages he found to order their Tongues, to cut off their Heads; but he rested not there, Their Lordships have heard how he Executed one without Law; The subsequent Articles were under colour of Law, to take away the Subjects Lands, to distribute them in a way of Justice; and yet they come to his own profit. Now the 10th Article charges him, that he did procure to Farm to his own use, the Customs of Ireland, that he enhanced those Customs, procured a Book of Rates to be made,

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made, and Goods valued Treble to the worth of the Commodity; instancing in two particulars, Wools worth 5 s. the Stone, or at most Nine, rated up to 13 s. 4 d. and a Hyde valued at 20 s. which was in truth worth but 5 s. That these High values were put upon them to increase the Customs. That my Lord of *Strafford* in his Answer, pretends it not to be done for his own benefit, but for the advantage of His Majesty, and gives some Colours, which are left to himself to open and prove. That they shall prove the Fact to be done for his own advantage, to the great deceit and disadvantage of His Majesty.

The Case was stated thus.

His Majesty King *James* did, in the 16th year of his Reign, Lease to the Duke of *Buckingham*, the Customs of *Ireland* for 10 years: In which Lease there were Exceptions and Agreements of Defalcations, as the Custom of Wines, which were Leased to my Lord *Carlisle*, at the Rent of 1400 l. per annum to the Crown; and on this Lease was reserved 6000 l. a year Rent, and half the clear profits above the Rent; which half did amount to 3700 l. a year. There was a second Lease made to the Dutches of *Buckingham*, being in the time of 7 Car. who was to have a certain sum out of the Lease, but the profit was for my Lord of *Strafford* and his Partners. Mr. *Maynard* observed the difference of the two Leases; and shewed, that it was not only a bargain of loss to His Majesty, of what he had, but also a bargain by way of advancement of that which was not by inhancing the values.

Which he demonstrated thus; The King out of the first Lease to the Duke 6000 l. and 3700 l. that is, 9700 l. by the latter Lease 11050 l. so at first view, 1350 l. gain, besides the Fine pretended to be paid; But in lieu thereof, the Lease to my Lord of *Carlisle* was procured to be surrendered, upon which the King had 1400 l. a year Rent, before the Dutches, that is now my Lord of *Strafford's* Lease, was Sealed; which 1400 l. a year, is not reserved in the said latter Lease, the surrender being 21 Mar. the Demise 24 Mar. So that 1400 l. a year is swept away by my Lord of *Strafford*, instead of the 1350 l. by way of advance.

Besides the surplussage of the profit of the Farm of Wines, Demised to my Lord of *Carlisle*, amounted to 3400 l. a year; sometimes an odd 500 l. sometimes 200 l. but *Communibus annis*, it was above 3000 l. And this being by Surrender, drawn into my Lord of *Strafford's* purse, but out of the Kings purse, and that not only by way of gift; for this surplussage above the 1400 l. per annum on the Wines, was to be made good out of the 11050 l. So that out of the 11050 l. there is drawn from His Majesty 4500 l. instead of an advance of 1350 l. And it rests not here, for besides these, the Customs of *London Derry*, and *Colerane*, worth 1500 l. a year, and the Customs of *Knockfergus* and *Strangford*, (reserved in the Dukes Lease) are stollen out by way of Defalcation in the Earl of *Strafford's* Lease.

Besides, whereas the Duke of *Buckingham* had a moiety of the Kings moiety, of all Seizures in case of mens concealing Custom, or Landing Goods at unreasonable times, the Statute allowing to His Majesty in some such cases a Moiety, in some cases the whole, my Lord of *Strafford* by his Lease, must have all that belonged to the King.

And whereas the Duke of *Buckingham* had, for Merchants Goods that came in by way of prize, an allowance of Custom. By the Lease of my Lord of *Strafford*

Strafford, whether they be the Kings Goods, or his Subjects, Custom must be paid by His Majesty, to his own Subjects.

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Mr. *Glyn* observed also a strange Clause in the new Grant; which is to the matter of opposition and Subversion of the Laws, That this Grant shall hold, whether it be repealed by Parliament or not: And further, the Rates are inanced when they come to my Lord of *Straffords* Grant, in 12 particulars; so that the Customs which at that time were presented as worth 12000 *l.* a year, fall out on proof to yield, seldom less than 40. sometimes near 60000 *l.* a year; all which Gain hath gone out of the Kings Purse, and is in my Lord of *Straffords*, and his Partners.

The Lease made to the Duke of *Buckingham* was first read, as to the Grant, the Render, and the Defalcations, *Dat. 23 May, 16 Car.*

The Lease to the Dutches of *Buckingham* was next read, dated 24 *Mar. 7 Car.* from the several parts whereof, Mr. *Maynard* observed the inancing of the Rates; The Grant of the Wines, the Payment of the Customs for the Kings Prize-goods, the Clause touching the Repeal by Parliament, the Defalcations, the allowing the part of the Kings Moiety of the Seizures, so formerly opened, to be fully manifested.

In this Lease there is 20000 *l.* consideration by way of Fine, and 11050 Rent received.

The Grant of the Surplusage of the profit of Wines to the Earl of *Carlisle* above the said 1400 *l. per annum* Rent, for the remainder of fifteen years, was read.

Wherein is recited the original Grant under the said yearly Rent of 1400 *l.* and the Surrender thereof to the Crown, 21 *Martii, 7 Car.*

They proceed to prove the Values.

And first, Witnesses were produced to prove, that by the Duke of *Buckingham*s Lease, 3700 *l. per annum*, was answered to the Crown for the Moiety of the Surplusage of Profits, over and above the 6000 *l.* yearly Rent thereupon observed.

Lord *Ranulagh*
a Witness.

The Lord *Ranulagh* being asked to that point,
Answered, That he was a Partner in the Farm in the time of my Lord of *Faulklands* Government in *Ireland*, and on the Lease there was reserved to the King, over and above the 6000 *l.* a surplusage of the profits, which came to 3700 *l.*

To prove the value of the Wine-Customs above the 1400 *l.* Rent, reserved on the Earl of *Carlisle*s Lease, which was to be answered to the Earl of *Carlisle*, out of the 11050 *l.*

Sir *James Hey*
a Witness.

Sir *James Hey* sworn and interrogated to that point.

Answered, That in 1635. the late Earl of *Carlisle* sent him into *Ireland*, to settle his affairs there, where he stayed almost 12 months; and then he received a years account of the Wines, which he hath to produce under the hand of the Auditor of that Kingdom, which is the money received for the profit of the Wines.

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The Accompt was read, viz.

A Collection of what the Impost of Wines amounted to, according to the old Rates for the year ended, *March 1635.* in the several parts following, wherein all Wines discharged out of forraign bottoms, are rated as strangers, *viz.*

The Total, 3787 *l.* 15 *s.* 9 *d.* Sterl. Out of which the sum of 1400 *l.* the Rent formerly reserved to His Majesty out of the said Impost defalked, there will remain 2387 *l.* 15 *s.* 9 *d.*

Sir *James Hey* further said, That 1636. my Lord of *Carlisle* dyed, and he will not depose for that years Accompt, but he conceives it is an Accompt sent over from the same party: And that he had a Letter from an Officer of the Custom-house at *Dublin*, wherein he mentioned the Impost to amount to 5000 *l.* and upwards, either 1638. or 1639. but he is not certain which.

To prove the Value of the Defalcations of London Derry and Colerane.

Robert Goodwyn
a Witness.

Robert Goodwyn sworn; being asked what the Customs of *London Derry* and *Colerane* amounted to *Communibus Annis*:

He Answered, That the Customs received in the Town of *Colerane*, In-gate and out-gate, from 25 *Mar.* 1634. till 25 *Mar.* 1639. being for the space of five whole years, as appears by the several Accompts thereof, is 1079 *l.* 6 *s.* 1 *d.* That the Total of the Customs of *London Derry*, where he collected himself in-gate and out-gate, from the last of *Febr.* 1634. till *Michaelmas* 1639. as appears by the several Accompts thereof made by His Majesties Commissioners for the City and County of *London Derry*, is 5348 *l.* 11 *s.* 10 *d.* That he shall acquaint their Lordships with the full Truth. These were not Collected according to the Book of Rates, but at an under value. That all the Book of Rates 1634. and so forward to the last Book, do value Beef at 16 *l.* a Tun. But because Beef is sold in *Derry* and *Colerane*, for 6 or 7 *l.* a Tun at utmost; therefore he was directed by the City of *London* to take 6 *s.* after the rate of 6 *l.*

Then for Hydes, these Books of Rates value a Hyde at 12 *s.* and where he should have taken 6 *d.* he received by direction of the City but 2 *d.* at the Infancy of the Plantation, and for the good of the place, which the City tendred.

Henry Brawd
a Witness.

Henry Brawd sworn, and examined to the same matter,

Answered, According to the Deposition of *Robert Goodwyn*, for the value of the Customs of *Colerane* and *London Derry*.

To prove the value of the Farms in Ireland.

John Welsh sworn, and examined to that point.

Answered, That he can speak nothing of knowledge, but only by hear-say.

To prove the value of the Customs, as increased on the New Book of Rates.

Robert Cogan sworn, and Examined to that Point.

Answered, That he never cast them up in particular, but he did estimate them before they took the Farm to be worth 10 or 12000 l. a year.

Here on my Lord of Strafford's Motion, Mr. Cogan was asked, Where he now lives.

He Answered, In London.

Robert Cogan a Witness.

To prove the increase of Customs 1636, 1637, 1638, 1639.

John Welsh Examined to that Point.

Answered, That he was directed from the Committee to come hither : That he went into the Exchequer-Office, and took notice of some Books there, presented to him by one of the Officers of the House, and he Collected these four years, 1636, 37, 38, and 39. and as they came to his hands he put them down, 1636. they came to 39936 l. 1637. 38889 l. 1638. 57380 l. 1639. 55582 l.

John Welsh a Witness.

Being asked concerning the value of Hydes, Wooll, and Tallow.

He Answered, That he knew the values very well, being Commodities he deals in daily: That he hath bought Hydes for 3 s. some 4 s. some 5 s. and very few exceed these Rates.

And in their Parts they ordinarily give 50 l. a Last, which is 200 Hydes, and then they have ordinarily 30 or 40 Hydes on the Last to make them full Hydes. For Wooll there is of 3 s. 4 s. 5 s. 8 s. 9 s. and that's the highest price he ever paid, or knew any of his Neighbours to pay, he living in Waterford.

Whence Mr. Maynard observed, That a Hyde of 5 s. is rated at 20 s. and 9 s. the uttermost for Wooll, rated at 13 s. 4 d.

Lord Renula being Interrogated to the value of the Customs 1636, 37, 38, and 39.

He Answered, That all he knew of it is this, about Christmas last he called on the Remembrancer of the Office of Exchequer, that keeps the Books of the Customs, he desired a Note of the value of the Customs for three or four years back, and the Officer gave him a Note 1636, 37, 38, 39, which Note he hath, but forgot to bring it with him this Morning. But to the best of his remembrance the value of the Customs for these years is thus, 1636. either 38. or 39000 l. and some odd hundreds, 1637. 39000 l. and odd, 1638. is the greatest year, and then it was 57000 l. and 1639. 55000 l.

Lord Renula a Witness.

Patrick Allen sworn, and examined to the value of Hydes and Wooll in Ireland.

Answered, That he hath bought Hydes at 4 s. 4 s. 6 d. 5 s. and 6 s. the most that ever he knew any pay for Hydes; for Wooll there is a course Irish Wooll not worth 4 s. some is worth 6 s. some 7 s. 8 s. but 11 s. is the most that ever he knew paid for Wooll.

Patrick Allen a Witness.

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And so Mr. Maynard closed the Article, and left it to their Lordships Consideration, what the King hath left, what profit my Lord of Strafford hath received.

To which my Lord of Strafford made Defence, in substance as followeth:

E. of Straffords
Defence.

I shall, under favour, proceed to make a just Defence of my self, as to this Impeachment of Treason brought against me by the Honourable House of Commons, for that is the thing in question, and which I shall only Answer unto, as being Charged with nothing else.

I desire I may read the Charge, and then your Lordships will see how pertinently the time hath been spent in the proving of it.

He reads his Charge as to the Tenth Article.

With humble submission to your Lordships great Judgments, I conceive there is nothing in this Charge, that can by any Law that ever I heard of, be brought to be Treason.

These Gentlemen have told your Lordships what His Majesty lost by a Contract with the Dutchess of *Buckingham*, which I conceive concerns not in me at all, being no Party to it.

If the Dutchess, by her Grant of 24. March, 7 Car. had more Priviledge than the Duke of *Buckingham* had for the 10 years preceding; yet by their own shewing here is 20000 l. Fine, and an increase of 1350 l. a year Rent, so that there was a Consideration for it.

That these Twelve Commodities were raised, and the values inanced on that Consideration 24. March, 7 Car. but the Lease wherein himself was Partner bears Date 21. April after; So that the Book of Rates was not raised by me, but by them that had care of the business between the King and the Dutchess of *Buckingham*; And this being set by the King's Officers, to whom it was proper, in the 7th Year of the King, it falls very short of what is Charged in the Article, that I should do it in the 9th Year of His Majesties Reign. If they can shew a Book of Rates raised the 9th, it may be said he hath raised the Book for his advantage, for then he had a quarter part of the Farm, and the King hath $\frac{3}{4}$ parts to himself; and these things have been tumbled and tossed over and over again, and fully answered in another place, and I shall be well able to answer it still, that the King hath had as great a Service done in this particular, as may be in this matter. But that is not the question of the day. I am Charged with raising a Book of Rates in the 9th Year of the King, and if there be any such Book, it is more than I ever saw, I know of none but that which was settled in my Lord of *Portland's* time, before I had any Interest in the Farm, which I think will go far to my clearing in this Point.

Whether these Rates be indifferently set or no, is a business for Merchants, and matter of Proof, and if it should be Charged on me as a Crime, I hope your Lordships will allow me time to examine Witnesses, and likewise Council. But I conceive it can be no way conducing to me as a Crime, and as a Treason I think your Lordships Judgments will clear me, and that's my Answer as to the Book of Rates, and I think a clear one.

For

For the values, your Lordships may be pleased to consider, that it may be a loss to the Farmer, and consequently to the King, who hath five parts of eight. But it can be a Crime to no body, and I hope your Lordships will give time to prove the point of value.

Your Lordships may suppose I know not the price of Hides, and Wooll and Tallow, being out of my Calling; but their worth will appear to be such, that the Duty is but taken according to the Articles of Tunnage and Poundage, that give this Duty to the Crown. For Tunnage and Poundage in *Ireland* is of another kind than in *England*, for here it is given Temporally, but it is an Inheritance to the Crown in *Ireland*, being 15 H. 4. given to the King and his Heirs; and producing the Book of Rates, his Lordship said, That nothing is taken but what is justly due by that Book. And if Merchants (who speak for their own advantage) be rested on for the price of things, the Customs will be little. But this Book of Rates was set by the Lord Treasurer that then was, and justly and fairly I think, and accordingly Customs have been taken; and when it shall be laid to my Charge in a proper way, I shall give such satisfaction, as to clear my self of the least Fraud or Deceit to my Master, and in the mean time I know your Lordships are so just, as not to prejudice me in this matter.

I will now shew how I came into the business of Farming the Customs, not voluntarily, or upon my Suit, nor did I ever intend it, but was commanded and enforced to it, and came in meerly for the doing of the King a Service; and if it prove a Bargain of advantage, I never knew the making of a good Bargain turned on a man as Treason. It was justly, fairly, and honestly procured, and prove it never so beneficial, that can never make it a Crime.

His Majesty hath been from time to time acquainted with the increase of this business most exactly and truly, it rising indeed beyond all imagination; the Customs, when we entred on them, being but 12000 *l. per annum*, and now your Lordships see what is proved, and may judge with what truth they inform, in the Remonstrance, out of *Ireland*, that Trade is decayed.

On their own shewing, by the Testimony of my Lord *Renula*, and others, it appears, that when they were Farmers, there was 6000 *l.* paid to the King, and a Devident of the other moiety, which came to 3700 *l.* So the whole value of the Customs was then 13400 *l.*

His Lordship desired that my Lord *Cottingham* might be asked a few Questions.

Lord *Cottingham* being asked, Whether in the Seventh year of the King there was not a Bargain concluded by the late Lord Treasurer, the Earl of *Portland*, with Captain *Williams*, Captain *Hensbaw*, and others, for the Customs of *Ireland*, paying 15500 *l.* Rent, and 8000 *l.* Fine.

Lord *Cottingham*
a Witness.

His Lordship Answered, That he conceives my Lord of *Portland* rested satisfied, that he had made that Bargain for the Rent and Fine, and that he so understood it, as to acquaint His Majesty with it, and understood it to be a very good Bargain.

Being asked, Whether did not *Williams* afterwards relinquish the Bargain.

His Lordship Answered, That he well remembers he did refuse it, and he thinks he refused it, because *Hensbaw* was the chief man in it, and he died, and thereupon *Williams* flew off. And that my Lord of *Portland*

Article 10. was very much troubled, because *Williams*, and the rest fell off, as he remembers.

Being asked, Whether after they had given it over, any body would give so much as they offered.

He Answered, He thinks there was no body that came near it, at least he never heard so.

Being asked, Whether after it was so left, it was not undertaken by Sir *Arthur Ingram*, and his Partners, on the very terms that *Williams* refused it, paying only 100 *l.* a year more Rent.

He Answerd, It is very true, Sir *Arthur Ingram*, and divers Partners, by his procurement, paid 100 *l.* more Rent, and, as he takes it, the same Fine, but for a quicker time; for the first men were to have time, and Sir *Arthur Ingram* was to pay it all in ready money.

E. of Strafford. My Lord of *Strafford* here added, That *Henshawe*, and the rest, having given over the Bargain, himself went to my Lord at *Rohampton*, and found that these other Partners that had it afterwards, would undertake the Farm, if he the Earl of *Strafford* would be a Partner with them, which was a thing he never intended, but refused.

Therefore on his Lordships Motion

Lord Cottington
a Witness.

Lord Cottington was further asked, Whether being moved by my Lord of *Portland* to come into the Farm, he the Earl of *Strafford* did absolutely tell my Lord of *Portland*, that he would not meddle therewith, not knowing how it would be interpreted; that he being the King's Deputy should be a Farmer.

His Lordship Answered, That he well remembers my Lord of *Portland* did conceive that to draw in these later Farmers; it was very necessary, and all the Succor they had to have my Lord of *Strafford* a Partner in it; because they conceived they should thrive in the Bargain, if he, having so great a Power, were a Partner; so it lay on my Lord of *Portland* to persuade him to yield to it; and my Lord of *Portland* told him, That if my Lord of *Strafford* would do the King that Service, he should not lose by it. And though my Lord of *Strafford* was unwilling to come in for a part, yet at last he did, and his coming in, drew in the rest, as he the Lord *Cottington* thinks. And further, that my Lord *Portland* told the King of it, and prepared the King to command him for the making of the Bargain, depending on his taking of a part.

E. of Strafford.

My Lord of *Strafford* here observed, That he humbly conceived the Goodness and Grace of the King, and the love of my Lord of *Portland*, was such at that time, that they would not have brought him into a business that should be laid to his Charge as Treason.

Lord Cottington
a Witness.

Lord Cottington being, on Mr. *Maynard's* motion, asked about the time, whether it was 7 *Car.*

His Lordship Answered, That he must refer himself to the Grant, for the Lease my Lord of *Strafford* shewed did follow immediately after.

Sir Arthur Ingram
a Witness.

Sir Arthur Ingram being, on my Lord of *Strafford's* Motion, Examined to divers of the Points before proposed to the Lord *Cottington*.

He

He Answered, He conceives there was a Bargain made by my Lord Treasurer and my Lord Cottington, with *Williams* and *Henshawe* for 15500 *l.* a year, and, as he conceives, 8000 *l.* Fine, and this was under their hands in Writing, as he heard.

That he knew nothing that my Lord of *Strafford* was to be a Partner, or to have any Interest in it.

That he conceives *Williams* did clearly refuse it after *Henshawes* death, what other Reasons he had he knows not; That he cannot tell, nor doth remember, that my Lord of *Strafford* used means to perswade *Williams* to stand to that Bargain; but certainly *Williams* was perswaded much by my Lord of *Portland*.

Being asked, Whether it was so left by *Williams*, did not he and his Partners undertake the Farm?

He Answered, That he was several times offered to come into that Farm, and from time to time refused it: That *Williams* pressed him exceeding much, and others before him; and he was moved to it by one *Cogan*, but refused it.

That the truth is, his Son *Arthur Ingram* was Partner in it, and there came in my Lord *Mountnorris*, Sir *George Ratcliffe*, and one *Cogan*, that they laboured much he should take the Farm, and he had much ado to be brought in.

Being asked, Whether these came in upon the same Terms offered to *Williams*.

He Answered, It will appear on the Warrant to the then Attorney, Sir *Robert Heath*, that they paid 15500 *l.* Rent, and 8000 *l.* Fine; and whereas the Officer should have paid it at six and six months, these were to pay ready money.

Being asked, Whether he had moved my Lord of *Strafford* to be a Partner in it.

He Answered, That he doth not remember he ever said so, but it might much encourage him to come in, if my Lord of *Strafford* were a Partner. But he the Examinant had no such great cause to desire it, for he was not in three years, but his Son was put out again; when it came to matter of profit they were gone.

To this my Lord of *Strafford*, did by the way, Answer in substance, That His Majesty gave Consideration for it, and had the benefit himself.

And so, I hope, I have cleared how I came into the Bargain, and that I cannot be Charged with procuring the Book of Rates, it being Printed 10. March, and my Lease began 21 April after, and that the Right being in the Crown, your Lordships will not conclude it, till you have heard it for the King, it being his loss in 4 parts, which was intirely His.

And whereas I am Charged with raising the Book of Rates (though done before my time) yet I was taught here in *England* that they might have been raised to a much higher Rate than they were, and to that purpose there came a Letter from His Majesty, whereby in 1637. a Proposition was made of raising the Rates, the Book being conceived not to be so high as it ought to be.

His Majesties Letter was read, Mr. *Slingsby* affirming it to be a true Copy, and that he saw it compared with the Original. Imparting, That His Majesty finding the Impositions set, on Merchandize of all Ports, to be well accepted, and to have ready and free passage, had Resolved, That such

Impo-

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L. of Strafford.

Article 10.

Impositions be laid in *Ireland* as be fit for that Kingdom, and to that end had caused a Book to be drawn, with fit Considerations of the difference of Trade in both Kingdoms, which was sent to my Lord of *Strafford*, to advise of the Particulars, who, if he found that any may bear a greater proportion, he may add what he will; if he find any over-rated, he may deliver his Reasons to be considered, and Regulated by His Majesties Committee here, Dated the 10th of *July*, 1633.

E. of *Strafford*.

My Lord of *Strafford* observed, That at the date of this Letter, he had an Interest in $\frac{1}{4}$ part of the Farm, and desired that my Lord *Dillon* might be asked, how my Lord of *Strafford* carried himself in it.

Lord *Dillon* a
Witness.

Lord *Robert Dillon* being asked, Whether my Lord of *Strafford* did not join with the Council to dissuade it.

He Answered, That he was at the Board when the Original of this Letter was read, as he takes it, for there was brought with it a Book of Rates, that he remembers not the particular words of my Lord of *Strafford*; but he is sure, by the whole Board, the entertainment of those Rates was dis-advised. And it was Resolved a Letter should be written to dis-advise it; but he remembers not when the Letter was written.

E. of *Strafford*.

Whence it may be observed, That I was not very tender of my own profit, which laid to the other, I hope, will clear me of this Article, wherein there is nothing of Treason; and nothing can be imputed to me, unless that the Kingdom of *Ireland* is under the King's blessed Government, an increased and growing Kingdom, and the Trade enlarged to such a proportion as makes the Customs of far more value than they were heretofore, should be turned on me as a Crime. And as for Treason, your Lordships see no Complexion towards so foul a Crime, and for all things that may reflect on me as Misdemeanors, in due time and place, I trust, I shall clear my self from that as well as I do from this Charge of High-Treason.

Mr. Maynard Replied thereunto in substance as followeth:

Mr. *Maynard's*
Reply.

That whereas my Lord of *Strafford* says, That to prove the matter of profit to himself, of loss to His Majesty, is impertinent: They Charge, that what he did was for his own Lucre. He Answers, That what he did was for His Majesties Profit. Therefore whether it be for his Lucre or not, is in-issue, and that they have proved; and that which he puts in issue is not to the purpose, nor proved.

Whereas, he says, This Article is not Treason, yet look to the whole body of the Charge, his taking away the Property of the Subjects, his inducing this by subtilty, by force or advice, to bring it to pass, if these be proved, their Lordships will be of Opinion with the House of Commons, That it is a high and a great Treason. Therefore let him not say this or that piece is not Treason, let him Answer it if he can, That the subverting of the Fundamental Laws be not great a Treason.

My Lord takes advantage, that the Patent to the Dutchess concerns not him, for it is granted in *March*, and his 21. *April* following; but if the Times be observed, it will answer it self, for the 10th of *March*, 7 *Car.* the Rates are raised, 21. *March* my Lord of *Carlisle's* Patent is surrendered, 24. *March*, the Dutchess Patent dated, and 21. *April* 8 *Car.* some 30 days after

after my Lord of *Strafford's* Lease is passed. If this had been intended for the Dutcheſs, ſhe would have kept it; but ſhe keeps it not to pay a days Rent, or receive any profit.

Article 10.

But this will intrench on my Lord of *Strafford's* Answer, on the ingenuity of which he ſtands ſo much, for he ſays, There were Propoſitions to raiſe theſe Rates, and he was acquainted and intreated to go on, and thereupon he enters into the Bargain: We deſire your Lordſhips to mark the time, that if there were theſe Propoſitions to raiſe the Rates, and this Lease muſt be drawn on the raiſing of the Rates; then was he interreſſed in the raiſing of the Rates, before he was interreſſed in the Lease. And then there is the Execution of a Deſign carried in ſeveral hands, which tend to one purpoſe, for he enters into it the ſeventh year, and his own Lease is the eighth; and therefore it was on his own Deſign and Counſel, and for his own Profit.

My Lord inſtanceth, That the Article lays the Book of Rates to be raiſed 9. whereas this was done 7. Mr. *Maynard* obſerved, Time is not material; had they charged him to have made a Book of Rates ſuch a Date, it had been ſomething. But if an Offence be laid in one year, and it appears to be done in another year, he muſt be puniſhed for that now which he did at any time.

To the Tunnage and Poundage, being the Inheritance of the King, it is ſo in *Ireland*; but the Point is the Oppreſſion of the Subject, when he makes that three which is but one; and ſo inſtead of giving the King his due, to extort from the Subject what he ought not to pay.

If he ſays, Proofs could not be had to prove a greater value of the Commodities, he had time to produce a Witneſs out of all *Ireland*. The Commons have produced them that ſpeak of the higheſt value, and there is great difference between three, four, five, the higheſt is ſix, and twenty.

What occaſioned *Williams* to Relinquiſh the Bargain is not material: But in what Caſe is the Subject of *Ireland*, that when a Bargain is to be ſet at the higheſt, he that is to be their Governor and Judge, to whom all Appeals muſt be made, ſhall enter and put in his Authority to make a Bargain that none elſe would take. The Subject is like to have good Juſtice, when the Judge muſt loſe by the Judgment he gives in the Caſe; when the Deputy of *Ireland* muſt be both Judge and Party.

It is ſaid *Williams* firſt entertained it, and left it; but though my Lord be not the firſt that Projected it, he is the man that firſt put it in Execution, the firſt that took it under the Great Seal, and firſt brought it to be a Grievance to the Subject, and that he is Charged withall. It might be fit for *Goldſmiths*, and ſuch to proſecute it, but not for them that are employed in Adminiſtration of Juſtice, and in great deſigns to follow ſuch a Deſign.

But when Profit comes roundly in, Sir *Arthur Ingram* muſt be put out, and for 11 years have half a years value.

Mr. *Maynard* added, That my Lord of *Strafford*, in his Answer, gives it as a Juſtification of himſelf, that he did not hold it fit to take ſuch a Bargain from the King, wherein there was not 1000 l. to be got.

But though he thought it not fit to take, when he could get but 1000 l. yet he held it fit to take ſuch a Bargain from the King, where, in holding it eight years, he gets 30000 l. He thruſts out Sir *Arthur*, and why not himſelf. And there is no wonder, that he that gained ſo much, would ſeem to Intereſt His Maſteſty in part, that his ſhare might remain more

Article 10. more intire ; surely it was the more injustice in him to retain the Bargain, when he had stept into it.

For the Letter of *July*, 1637. there was a Proposition, shewing His Majesties Care for His Subjects in *Ireland* what to inhance, no, to inhance if there were Cause. My Lord pretends he was loath to make an Inhancement, but that was the Opinion of the Board : It is to be wondred that he took them not down rather.

And so he concluded, That they had proved the Charge ; that he hath procured the Customs to be advanced, they were not advanced till he entered. And their Lordships were desired not to let one thing pass without Observation. That from 7 *Car.* to this time such gain hath been made, that there is come to his purse and his Parteners 300000 *l.* if the Depositions be to be credited, and it must be four more, if the succeeding years hold proportion. That here is not only an Inhancement of Rates on the Subject, by way of Extortion, but this is soaked out of the Kings Purse. That is the 1400 *l.* a year Rent for the Wines, the Surplusage of the Wines, the Defaulcation of *Colerane*, *London-Derry*, *Knockfergus*, and *Strangford*. And besides their Lordships may observe the Clause in the Patent ; the Grant must be good, though there be an Act of Parliament against it, and the King must pay for His own prize Goods, which is left unto their Lordships Judgments.

The Committe did now declare, That for the present they would lay aside the Eleventh Article, and proceed to the Twelfth.

The

T H E

Twelfth Article.

The Charge.

Article XII.

Charge.

12. **T**hat the said Earl being Lord Deputy of Ireland, on the Ninth day of January, in the Thirteenth year of his now Majesties Reign, did then, under colour to Regulate the Importation of Tobacco into the said Realm of Ireland, Issue a Proclamation in his Majesties Name, Prohibiting the Importation of Tobacco without Licence of him and the Council, there from and after the First day of May, Anno Dom. 1638. after which Restraint, the said Earl, notwithstanding the said Restraint, caused divers great quantities of Tobacco to be Imported to his own use, and freighted diverse Ships with Tobacco, which he Imported to his own use: and that if any Ship brought Tobacco into any Port there, the said Earl and his Agents used to buy the same to his own use, at their own Price, and if that the owners refused to let him have the same at under-values, then they were not permitted to Vient the same there: By which undue means the said Earl having gotten the whole Trade of Tobacco into his own hands, he sold it at great and excessive prizes, Inch as he list to impose for his own Profit.

And the more to assure the said Monopoly of Tobacco, he the said Earl, on the Thre and twentieth day of February, in the Thirteenth year aforesaid, did Issue another Proclamation, Commanding, That none should put to Sale any Tobacco by Whole-sale, from and after the last day of May, then next following, but what should be made up into Rolls, and the same Sealed with two Seales, by himself appointed, one at each end of the Roll. And, such as was not Sealed, to be seized, appointing Six pence the Pound for a Reward to such persons as should seize the same: and the Persons in whose custody the Unsealed Tobacco should be found, to be committed to Gaole, which last Proclamation was Coloured by a Pretence, for the restraining of the Sale of unwholsome Tobacco, but it was truly to advance the said Monopoly.

Which Proclamation the said Earl did rigorously put in Execution, by Seizing the Goods, Fining, Imprisoning, Whipping, and putting the Offenders against the same Proclamation on the Pillory, as Namely, Barnaby Hubbard, Edward Cavena, John Tumien, and diverse others: and made the Officers of State, and Justices of Peace, and other Officers, to serve him in the Compassing, and executing these unjust and undue Courses; by which Cruelties, and Unjust Monopolies the said Earl raised 100000 l. per Annum Gain to himself. And yet the said Earl, though he Enhaunted the Customs, where it concerned the Merchants in general, yet drew down the Impost formerly taken on Tobacco from Six pence the Pound to Thre pence the Pound, it being for his own Profit so to do.

And the said Earl, by the same, and other Rigorous and Undue Means, raised several other Monopolies, and Unlawful Exactions for his own Gain, viz. on Starch, Iron-pots, Glasses, Tobacco-pipes, and several other Commodities.

Article XII.

Mr. Maynard did begin to open the 12th Article, which was Read.

Mr. Maynard.



That he did Impost Tobacco himself, and restrained others: forced the Subjects to sell their Commodity at Low and Under-values, because they could not Import it without his Licence; and when himself had Bought it at Low Rates, he Sould it at Excessive great Rates; so that he hath made near 100000*l.* Profit by his Monopoly.

That when his Proclamation is made, and Oppression put upon the People, he doth the 23^d of Feb. 13 Car. Ordain, That none should Sell Tobacco within

the Kingdom, but such as was sealed by his Appointment; and, they that Sold otherwise, their Goods should be Sold.

That, by occasion hereof, the Kings Subjects have been grievously punished by *Fining, Imprisoning, Pilloring, Whipping*, and the like.

To prove the Restraint, the Proclamation on the 9th of January, the 13th Car. was first Read.

By the Lord-Deputy and Council.

A PROCLAMATION concerning the Importing of TOBACCO.

By which Proclamation, is set forth in Substance as followeth.

Proclamation.

That whereas unsound Tobacco is brought in, &c. by the Unlimited Liberty of divers to Import, &c. and being no Usual Commodity, &c. a strict Charge is given, That none presume from the First of May next, to Import any Tobacco without Special Licence from Us, on pain of incurring His Majesties high displeasure, and the Punishments due for such Contempts.

The Proclamation concerning Sealing of Tobacco was next Read, the 23^d of Feb. 13 Car.

By the Deputy and Council.

Wherein,

Proclamation.

The former Proclamation is Recited: And, to prevent Secret Wayes of Importation, a Charge is given from the last of May next, no Tobacco be put to Whole-sale, unless it be in compleat Rolls, which may be conveniently

ly seal'd, and to be Sold with two Seales, one to be affixed at each end, which Seal order is taken to be provided for that purpose. That what Tobacco shall be found without those Seales, the Kings Officers may search for, and seize, and convey to the next Port, which Course shall be taken, that every Seizor shall have 6 d. for every Pound, as an Encouragement; and, that the Officers shall commit the Persons of such in whose hands such Tobacco shall be found, till Security shall be given to appear before the Deputy and Council, and not to depart without Leave, &c.

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Mr. Maynard observed, That John Carpenter, &c. who are imployed in this business, are all Servants to my Lord of Strafford, but Little, who is Sir George Ratcliff's Servant, who did accordingly make Seizure.

Mr. Maynard.

And he farther observed, That my Lord of Strafford had several Magazines of Tobacco, and that, from time to time brought in, was bestowed there. And, on the First Day of his Defence, my Lord of Strafford said, 40000 l. of his Tobacco was Seized.

To Prove the Execution of these Proclamations.

Timothy Crosby Sworn, and Asked, Whether Ships have not been Prohibited to Land their Tobacco?

Mr. Crosby.
Witness.

He Answered, Yes: Since the 11th of November, 1637. and he Instanted in Governour Briskett of Montferratt, Mr. Arundel.

Being Asked, If any Ship Perish'd upon the Restraint?

He Answer'd, The John of Kingsale: It came into Lymerick, and being not there suffered to Sell, was forced to Galloway, and was callt away going into another Harbour: And this, because She was not one of the Magazine.

Being Asked, What Rates the Merchants sold their Tobacco for before this Restraint, and what since?

He Answered, Before the Restraint, for 6 d, or 7 d the Pound: and other times for 14 d, and 16 d on Shipboard; and since, some at 9 d a Pound, and others at 6 d Ob.

Being Asked, Why the Ships were not permitted to Land?

He Answered, Because they would not pay 2 shillings a Pound, 18 d Custom, and 6 d Impost.

Whence Mr. Maynard Observed; That if they come for the Use of my Lord of Strafford, and his Party, they must pay 3 d; if for others, 18 d, and Impost.

Mr. Maynard.

Patrick Allen Sworn: Being Asked to the matter of Restraint.

Mr. Allen.
Witness.

He Answered, That a Ship of 80 Tun was not admitted to Land at Yoghall,

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Yoghall, but forced to carry her Lading of *Tobacco* to *St. Mallis* in *France*, where he believes it is.

That a *Proclamation* was out in 1638, That no Merchant should Land any *Tobacco* without special Licence of the *Patentees*.

That before the *Proclamation* he bought *Tobacco* for 6^d and 7^d, a Pound, a great Quantity, of one of *Dartmouth*: and since they pay 2 *Shillings*, 7 *Groats*, 8 *Groats*, and 3 *Shillings*. That the *Patentees* pay the Merchant 6^d or 7^d a Pound, which is the most he hath heard of.

Mr. Welsh.
Witness.

John Welsh Sworn, and Interrogated to the same matter.

Answered;

It was not granted, they sold as much as would pay for their Provisions, for which they had 8^d a Pound; but would not give way to Land any more of it.

That one *Arundell* of *Excester* put into *Waterford*, and he the Deponent was in Company with him to *Dublin*; and desired, that if the said *Arundell* could get off his *Tobacco*, he would sell it him the Deponent, who would give him 2 *Shillings* a Pound for it: That he could not get it off, and sold it to *Joseph Carpenter* for 6^d a Pound. That he paid for some Landed at *Waterford* by one *Wells*, 16^d a Pound ready Money. That the *Patentees* do usually buy at 6^d, Only there was a Bargain made with one *Arundell*, to take it at 8^d, or 9^d; but, how far they went he knows not. That one *White* of *Waterford* put into *Limerick*, and told him the Deponent, That he got but 4^d a Pound for his *Tobacco*.

Being Asked, What Quantities he conceives is brought in Annually?

He Answered, That he hath Estimated it with advice of others, that *Ireland* cannot consume less then 500 Tun a year; Others say, It doth far exceed: and 500 Tun is near 140000 l. at 2 s. 6^d a Pound.

Being Asked, Whether he knew any Sentenced on these Pretences?

He Answered, He saw *Patrick Wells*, Merchant, of *Waterford*, stand on the Pillory for having Unsealed *Tobacco*, and exposing it to Sale. *Richard Whitwick* for the like offence Pillory'd at *Waterford*. That he hath heard of diverse others. And, he thinks the Book of *Censures* is here under the hand of the Farmers Solicitor, and sent to the Committee out of *Ireland* by a Messenger Express.

Mr. Gough.
Witness.

Patrick Gough being required to Answer truly, Whether the Book produced, containing an Abstract of the Sentences made in the Castle-Chamber, was delivered him by the Committee in *Ireland*?

He Answers, That he believes it was among other things delivered him by the House of Commons, to be brought to the Committee, Sealed up in a Box.

But

But the Committee not thinking fit to offer the Book in Evidence.

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Patrick Gough was examined, whether he heard of any Sentenced in the Proclamations for Tobacco?

Patrick
Gough.
Witness.

He answered, He knew divers, and there were three or fourscore from time to time attending in the Council-Chamber, committed to the Marshalsey, and prosecuted by Hunt; and these were, (as he remembers) in Easter Term last. And Michaelmas Term before, and every year for three years past: That he hath heard of 60 at a time committed, and they were sentenced for having Tobacco unsealed.

Being asked on my Lord of Strafford's motion, whether my Lord of Strafford was a Partie to them?

E. of Strafford.

He answered, That as he remembers, in Michaelmas Term last was 12 moneths, there were three Waterford men sentenced, whereof one was for 9 l. of Tobacco.

One of them Fined 100 l. and loss of his Office, being Waiter. The other 100 l. and the Merchant 100 l. and both committed, and their Fines reduced after to 20 l. That they were fined before the Council, at the Council-Table; and as he remembred, my Lord of Strafford was then there.

Mr. Maynard did then produce a Sentence, under my Lord of Strafford's hand (as he himself conceived it to be) wherein divers persons were sentenced.

Mr. Maynard.

Mr. Glyn desired a proof concerning the value, for which a witness should have attended, but is withdrawn; but the Remonstrance of Ireland speaks particularly to it.

Mr. Glyn.

That the value of it, exceeds all the Kings certain and uncertain Revenue in the Kingdom of Ireland.

Mr. Plunkett being sworn, being examined touching the truth of the Copy. Answered, That he had the Copy from the Clerk himself being a Member of the House. That he hath looked on the Article of Tobacco, and as it is in substance with that which was voted.

Mr. Plunkett.
Witness.

My Lord of Strafford desired he might be asked what proofs were there offered.

E. of Strafford.

But Mr. Glyn opposed that, hoping there was no question to be made of the proof of a thing that was done by all the Commons of Ireland, to whom perhaps, their own knowledge is the proof.

Mr. Glyn.

The Remonstrance read as to the 6th Article.

That the Tobacco bought at low rate, is sold at excessive rates, whereby thousands of His Majesties Subjects are destroyed, and most part of the Coine of this Kingdom ingrossed into particular hands; insomuch, that the Profits arising thereby, surmount His Majesties

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Majesties Revenue, certain or casual within this Kingdom, and yet His Majesty receives very little profit by the same.

Mr. Crosby.

Timothy Crosby being interrogated how much Tobacco comes into the Port of *Kinsale* for three years last past.

He answered, 60 Tunn in three years.

Mr. Maynard.

Whence Mr. *Maynard* observed, if one Port brings in 200 Tunn, the rest will go to a great height.

Being questioned what the Patentees give, and what they require for such as is refuse Tobacco upon the sorting of it.

He answered, that for the refuse, the Owners had not above 1 d. and the Patentees sold none of that under 2 s.

Mr. Maynard.

And so Mr. *Maynard* closed this Article, observing that they have proved the Restraint and the Execution of it. That it is turned into a *Monopoly*; That none must be imported without their Licence; That they buy what is brought in at low rates, at 6 d. a pound, when others will give 2 s. That 4 s. 8 d. or 9 d. is the highest they give, so that they sell for three or four times the value of what they pay: That by an estimate, 500 Tunn is imported: That punishments are inflicted; The Kings free Subjects Whip'd, Pilloryed, Fined; And so my Lord of *Strafford's* Answer was expected.

After a little Respit his Lordship made his defence to this Article, in Substance as followeth.

That he conceives he hath very little crime to answer, as to this Charge, especially as unto Treason.

That he wisheth with all his heart he had so much profit to answer for, as is pretended that he gained by this business.

His Lordship presented in the first place a Petition presented by the Commons House of Parliament in *Ireland*; in the Parliament preceeding this, wherein they desired, that this Lease of the Impost of Tobacco might be taken in, and compounded for, and converted to the Kings benefit: That the Revenue might be able to bear the Charge, and the Subjects eased from demand of Contribution, and supply for this purpose; so that this was originally ordained by themselves, on their own Petition, to be settled as a Revenue of the Crown.

Mr. Gibson.

The Petition being affirmed by Mr *Gibson*, to be a true Copy, being examined by him before Sir *Paul Davis* in *Ireland*, was read as to that point, and it imports.

Lastly, They do humbly advise, that the six Subsidies, cheerfully granted in this Parliament, may be employed for the buying of the Leases and Farms, that the same may be able to supply the necessary charge of this Kingdom in the first place. And in the second place, to satisfy and discharge the Debts and Incumbrances aforesaid, as in manner aforesaid, and for the other not included. The House would not enter into Consideration thereof, but are confident, that when others justly due, shall appear

pear, your Lordships will take a course that shall stand with your Honor and Profit.

My Lord of *Strafford* offered a Witness to prove, that the Tobacco is one of the things that goes under the name of Leases.

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Mr. *Slingsby* being examined to that point.

Answered, That he was a Member of the House of Commons the first Parliament, and Debate was offered, how the Kings Revenue might be supplied, to maintain the Charge; several Grants and Leases, applyed to particular men, were thought fit to be brought in, to be applyed to the Kings advantage there; there was the Custom, Wine, and Aquavita Licenses; there was Tobacco, and in the Kingdom.

Mr. *Slingsby*.

My Lord of *Strafford* desired liberty to reserve Sir *Adam Loftus*, whom he conceived a material Witness for him, but was now absent.

E. of *Strafford*.

Lord *Robert Dillon* being asked whether he was of the Parliament House when these Leases were advised to be brought in, and whether the Lease of Tobacco was not one that was advised to be brought in, and applyed to the Crown; and that part of the Subsidies should be employed to that end.

Lord *Robert Dillon*.

His Lordship answered, That he did serve in the House of Commons that Parliament, that they were upon the Kings Revenue, and they wished that the Charge might be answered by the coming in of the Rents. He remembers, that on debate in the House, a Committee was appointed to consider of the disposing of part of the Kings Revenue, to take off the Incumbrances then of His Majesties Revenue, to the end, the Rent of His Majesty being raised, they might be able to answer the ordinary and standing charge of the Kingdom, and so divers things were to be brought in; but for the very particular of Tobacco, he doth not remember, it by name though he remembers Wine and Aquavita, and the Incumbrances on the Customs.

My Lord of *Strafford* in the second place, shews the Grant of the Imposition on Tobacco, as they were Lett June 13. Jac. and at that time were Lett for 10 l. a year Rent.

E. of *Strafford*.

Which being attested by Mr. *Gibson* to be a true Copy, and to be by him examined at the Rolls in *Ireland*, was read, as to this point purporting,

Mr. *Gibson*.

That the King appoints, That from the Date thereof, there shall be received by way of Imposition Money 18 d. currant, upon every pound of Tobacco, which is demised to *William Massam* and *John Pitt* for 7 years, under the yearly Rent of 10 l. Dat. 6 June, 13 Jac.

Next he offered a Lease of the said Impositions to Mr. *Lyne* for 21 years, at 20 l. per ann. Dat. 8 Feb. 19 Jac.

But Mr. *Maynard* admitting it, the reading thereof was forborn.

Mr. *Maynard*

Next, He offers the Kings Letter 18 July, 12 Car. whereby His Majesty directs the settling of this business, and is a warrant for issuing of the Proclamation wherewith he is charged.

Which

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Mr. Gibson.

Which being affirmed by Mr. Gibson to be a true Copy, was read, whereby is imported.

That His Majesty being given to understand, that the pre-emption of Tobacco may be rightly assumed, had resolved to lay hold of the present opportunity, requiring my Lord of *Strafford* to advise with such of the Council there, as he should think fit, or by what Limitations and Conditions the pre-emption may be settled; and afterwards, to direct a course for licencing the sale thereof, to the best improvement.

Yet so as a care may be had as near as may be, to prevent the bringing in of unsound Tobacco, leaving to his judgement, all necessary provisions to be determined about this business, Dat. 18 July 12 Car.

My Lord of *Strafford* observed, that this Letter was sent upon the like course taken here in *England*, it being thought fit to be alike in both Kingdoms; but the business of *England* preceded it, and was the occasion of the Letter.

The next thing observed was the Proclamation in *England*, to prohibit the planting of Tobacco in *England* and *Wales*, and the landing of Tobacco in any part of *England* or *Ireland*, but only at *London*, other than such, and so much Spanish Tobacco, and Plantation Tobacco, as should be allowed and determined to be competent, upon pain of Confiscation: A Moyety to the King, a Moyety to the Discoverer.

Which was read, being dated 14 Mar. 13 Car.

Which my Lord of *Strafford* observed to be the same with that where-with himself is charged; and that the Letter directing him to take this business into Consideration, bears date July 12. Car. and the first Proclamation issued out ult, Jan. 13 Car. So that he made no haste.

The next thing his Lordship offered, was the Contract it self, Dat. 7 Nov. 13 Car. which being affirmed by Mr. Gibson, to be a true Copy, was read, being Signed by the Deputy and Council, and Imports

That *Carpenter*, *Bartholomew Peatly* and others had made an humble Proposition, thereby setting forth, That no Order hath been taken for the due bringing in of good and sufficient Tobacco, or quantities proportionable to the Consumption thereof, whereby the price is too much inhaunced, or the Market glutted, and desiring that they may have the Renting of the Tobacco business for 11 years, paying yearly 5000*l.* for the first five years, 10000*l.* for the six last years freed from Custom, and only paying 3*d.* Impost, and the Custom not to be advanced; that, they, and such as they shall contract with, may be free to return, and enter in *London* or *Ireland*: That in case of War, they may account only for the Profits, in lieu of the Rent.

That upon my Lord of *Strafford*'s leaving the Government, they may be free to surrender their Grant, and not stand charged.

That Tobacco may be solely imported, and the sale licensed by them.

That no Tobacco be planted in *Ireland*, during the Term.

Whereupon, a Warrant was issued for the paying of a Grant to them of the sole Importation, and Lycensing the sale of Tobacco for 11 years, paying 5000*l.* yearly for the first five years, 10000*l.* for the last six years, above the custom of 3*d.* per pound, with all the Customes received for His Majesty since *Michaëlas* last, and all Impositions to be laid down during that term, &c. Dat, 7 Nov. 1637.

And such security to be given for the Rents, as to the Court of Exchequer should be thought meet

Where my Lord of *Strafford* observed, that he did nothing herein, without the assistance of the Principal of the Council there.

And further, That before this was resolved, advertisement was sent His Majesty, that His direction might be given, and the Letter from the Council of *Ireland*, to Secretary *Cook*, being affirmed by Mr. *Gibson*, to be a true Copy, was read, importing the substance of the said Treaty, and the conditions thereof recited, Dat. ult. May, 1638.

The next thing offered is the Grant it self, Dat. 22. June, 14 Car. And an Act of Parliament for the confirmation of it, according to the Petition and the King's Letter.

The Clerk of the Crown did now inform their Lordships, That there is a Bill concerning Importation of Tobacco, transmitted out of *Ireland* in July last, and it was sent back at *Michaelmas* last, with a Commission to the Lieutenant, to give Royal Assent, but whether it was given or no, he cannot tell.

But my Lord of *Strafford*, said, it was only transmitted from the Deputy and Council, and sent back under the Great Seal, but did not pass the Parliament there; and he desired it might be read only as to the Title: But that was laid aside.

And then his Lordship added, That as for the *Proclamation*, he with the rest of the Council, did set his Hand thereunto; and that he conceived then, and trusts it will appear now to be upon very good Warrant, and justifiable; he having the Kings Command in the point, and it being only Temporary, till an Act of Parliament might make final in it, that it might remain in the Crown for after-times, and a *Proclamation* thus issued till an Act of Parliament comes, he conceives very Justifiable; if it be an Error, it is an Error he hath been always misguided by. That the King may make a *Proclamation* till a Parliament comes to make it more lasting.

And whereas some Transgressors against these Proclamations, are Sentenced, yet he is charged with none of them, and so on the matter is not charged with their Sentence; though he conceives the same very justifiable, there appearing to be Perjury in some of them; and if they be poor, and men of no great fortunes, he knows not what is more proper or deserved, than to see men taken in so foul a Crime, on the Pillory, as being a fair and moderate punishment; and the Fines were *in Terrorem*, there being little or nothing of them paid. And this point of Jurisdiction for punishing Transgressors of Act of State and Proclamations, he conceives fully proved before in the former Articles.

And whereas 'tis said, the Tobacco was not sold at reasonable Rates as formerly, he desired their Lordships to observe, that the Contract was made 22 June, 14 Car. and in September was Twelve moneths, he was not privy to it.

And on this the Contractors stand on their Justification, and hope to make it appear, if they may have time, that the Planters have in no part of Christendom, so good a value as here; and that they sell at as moderate rates, as ever was sold heretofore, and better conditioned Commodity.

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His Lordship further observed, That the proof which makes the great Cry in point of value, is weak enough.

That there should be near 100000 *l.* profit a year, is a wonderful estimate, and admirable to him. That during his being there, which was one year, it shall appear they were loofers by it; which he speaks confidently, thinking those intrusted with it, would not abuse him; they having protested, the Countrey was so abused, that they could get very little by their Office.

That how it is since he knows not, for the Contractors, one of them is laid up in prison, and the Tobacco seized on, under pretence that he is impeached of Treason; But they profess (and he believeth them) That when Sir George Ratcliffe came out of Ireland, they had received in Money 80000 *l.* and they had layed forth in Rent, buying Tobacco, Stock, and Charges, 86000 *l.* so that they had not in their Money by 6000 *l.* And Sir George Ratcliffe (who is now in Town, and though his misfortunes are heavy and sad enough, yet is known to be a person of Honesty and Worth) he dares say, will take his oath on it, and they that know him, know he would not take a false oath, to gain all the world; That there be indeed some debts which are not gathered, and some collected, and paid into the *Exchequer*: and this he said, is to the value of the bargain; and where he hears the Gentleman say, the Customs have been worth to him and his Partners 300000 *l.* Surely the Informations have been much mistaken from them that gave the notice out of Ireland; for it is to be understood, that whatsoever the Profits are, the Kings Rent must be taken out, which is 15500 *l.* of the rest the King hath $\frac{1}{4}$ parts, and himself but $\frac{1}{4}$ part; so that on the matter, he thinks they have been worth to him, 4 or 5 or 6000 *l.* a year better than the Rent, though the value is not considerable in his Charge against him of Treason.

That their Lordships might see the Reasons why he could not prepare a particular Account of these things, His Majesty had had a particular Account, had not the Ministers been so dealt withal, laid in prison, and abused; If you will speak of a tyrannical and arbitrary way of Government (The Commons expressing some distaste at this Egression; my Lord of Strafford saith he complains of Ireland, not of things here) and desires leave to read two Orders of the Commons House, who have seized on all, given order for sale of them, taken the Contractors, employed and imprisoned them, and he thereby rendred altogether unable to clear things, as otherwise he might have done; and these things they do, he knows not how, but to his undoing indeed.

Mr. Maynard did here interpose and desire to know, to what purpose he would have them read; and whereas he speaks of a Tyrannical usage, he desires to know whom he presses, whether the House of Commons there or here.

And Mr. Whitlock added, That my Lord of Strafford in his defence of the last Article, let fall some things that were an Aspersion on the whole state of Ireland, the Lords and Commons there Assembled; for he said, Their Lordships might perceive the truth of the Remonstrance, presented from thence on a former occasion, and now he speaks of a Tyrannical Government, on his making of Orders, which himself mentions to be made by the House of Commons in Ireland. And therefore their Lordships were desired to vindicate the Honor of the Kingdom of Ireland, which suffers by those aspersions.

Sir John Clotworthy further insisted on it, That their Lordships are witnesses of the many Commendations my Lord of Strafford hath formerly issued, concerning the people of Ireland, as long as they were subservient to his

his Courses, and could not find a way to extricate themselves from his Lordships yoke, they were cryed up, to be numbred amongst the best of His Majesties Subjects. Now when they are seeking to vindicate and relieve themselves from his heavy yoke, they must be called a people, he knows not how bad, and therefore beseeches their Lordships that they may be set right in their Lordships opinions.

Article XII.

The reading of the Order being opposed by the Committee, as tending nothing to the Cause; Mr. *Maynard* alleadging that my Lord would have them ready to give their Lordships satisfaction, why they should not be read, for he imports, they be tyrannical, and something he would deduce out of them, to the aspersion of others.

Whence my Lord of *Strafford* added only on the execution of them; And Mr. *Maynard* replied, prove them on the Execution, they were at last permitted to be read.

One dated 27 Feb. 1640, importing,

That whereas great sums of Money have been raised by Customs, above the Rent, and my Lord of *Strafford*, and Sir *George Ratcliff* are impeached of High Treason, therefore it is Ordered, That all persons that have Money of His Majesties in their hands, concerning the *Monopolies*, shall forthwith bring the same into his Highness Receipt; and the Commissioners appointed to oversee the Ports, shall bring in their Letters Patents to be considered of; and because the Customs of *Dublin* amount to $\frac{1}{2}$ of *Ireland*, and the now Collector is not responsible for his great charge, if he should miscarry; therefore Sir *Edw. Bagshaw*, Kt. now Customer and Collector, shall collect all the Customes, and pay the same into the Receipt. That the Magazine-keeper of Tobacco shall forthwith return a true List of all Tobacco remaining in his hands, and what was sold since *Michaelmas* 1637. and to what account, and what Moneys are received, and to whom the same is paid, and what Money, Bonds, Bills, and other Debts remain unpaid of the Premises, and in whose hands they be; And that all Customers, and Officers in the Ports and Creeks, do deliver into this House within two moneths, a true List of all such seizures of Money, Tobacco, and other Commodities, that they, or any of them have made or compounded for, or what remains in their hands; and likewise all forfeited Bonds for Goods transported into *England*, &c. and of all Fees they have received, and their Warrants, and a Note of all such persons as receive Fees, and are no Officers, and what Fees, &c. for seven years last past.

The Second Order was dated 3 Mar. 1640.. importing in effect,
That

Forasmuch as much Tobacco lies in the Magazines, which is perished, It is Ordered, that certain persons in the Order named, shall make sale thereof to the best advantage; and the Contractors are required to make weekly Accounts of all the Moneys they shall receive, or which shall accrue out of the Tobacco by them sold, and deliver the Money to certain persons therein named, or any two of them, who are required to take the burden on them, and receive the Account weekly due, &c. and to be answerable to His Majesty, &c.

Article XII.

My Lord of *Strafford* observed, that these he shewed, to justifie, that he could not give particular satisfaction, those imployed being in prison.

And further, that in the whole proceeding of this, he had done nothing but what's warrantable, and howsoever it proves a good or a bad bargain, that's not in question; for he never knew the goodness of a Bargain could make a Treason: If every one that makes a bad bargain with the King, should be a Traitor, it were hard, but at that time none would be a partner with them, among them all that say, it was so great a bargain.

That in fine, the worst of this can but be, that it is a *Monopolie*, a sole buying and selling of *Tobacco*; and he hath known in his little poor experience many *Monopolies* overthrown by sentence of the Commons House; ; but under favour, never heard it to be judged Treason before this time.

For the Port of *Kinsale*, it is the Port wherein in a manner, all the *Tobacco* of the Kingdom comes to be Landed, and thence transported again; and that the value of the *Tobacco* is worth 100000 *l.* is but an estimate, and no Consideration herein had of the price, the Customes, the Losses and Charges, and the Remonstrance of the Commons, is only that they conceive it to be so; And this is all the Testimony to the value.

And so his Lordship concluded his Defence.

And Mr. Maynard made Reply in substance as followeth.

And First he observed, That whereas it was said, the Orders of the Commons House were Rigid, indeed Tyrannical, when they be heard, there's no such thing in them; they appoint two of my Lord of *Strafford's* Agents, at least one of them is his Agent, and the other Patentee to account the Money: That they shall only bring in a List, without taking away the Books, or any thing conducing to his defence.

That he knows not for what purpose my Lord of *Strafford* objected the Lease 10 *jac.* for that concerned imposition on *Tobacco*, but the question here is, That none must sell *Tobacco* without Licence of the Patentee.

Here my Lord of *Strafford* interposed, That any man that will pay Imposition and Custome, may bring in what *Tobacco* he pleases. But Mr. *Maynard* answers, That that's more than the *Tobacco* is worth, and if the Patentees may sell without Imposition and Custome at their own Prizes, they are 2 *s.* a pound before any man.

Mr. *Maynard* proceeded to answer, That of the Commons petitioning for regulating the King's Debts, and observed, That it was only that the Incumbrances on the Kings Revenue might be taken off; and this is no ground that the Subject must not have his Goods, because the Kings debts must be regulated, nor a good service done His Majesty, that when the Commons shall desire something may be done, therefore this is an Argument, and Justification, that any thing may be done; this being to stop the issues of the affections of the Kings people, when what they propound, shall be so far beyond their Intention; besides, some have been whipp'd, Pilloryed,

Pillory'd, and, Was that the Intention of the Commons House, to put such Severity, pardon him if he say Cruelty, upon the Subject?

That the Letter from His Majesty was on a Misinformation; for it sayes, His Majesty is given to understand the Preemption of *Tobacco* may be rightfully assumed; Yet the known Law in *England*, or *Ireland*, being, that any preemption may be put upon a Commodity, to take it from the Subject; so they have the more to answer for it that did inform it: and, if the Question be, Who? Surely out of my Lord of *Strafford's* own Defence, he himself appears to be the Man; for, he makes the Proposition of the Commons-House the ground of his Proceeding: So it was an Arrow out of his Quiver. Besides, though it was to be assumed to His Majesty, yet the Question is, Who had the Profit? the King had little in proportion to what hath been raised.

For the Proclamation, *March 13 Car.* Whereas my Lord makes that in *England* the Example of that Issued in *Ireland*; if that which follows may be an Example to that which goes before, it may be true: But, the Proclamation in *Ireland* was in *January*, and the Proclamation here is in *March*, the same year; Therefore that's a great Mistake.

Besides, if there be a *Monopoly* set up in *England*, Shall that Justifie another? A Crime being aggravated, when it becomes an Example; for, when they go to the other, one strengthens another; and there is more Mischief to the *Common-wealth*.

And, in Parliament, they must be bold to say, when Ill Ministers shall take on them to Vouch the Sacred Names of His Majesty to Justifie a *Monopoly*, His Majesty is Innocent, but they liable to great Punishment; and the more Punishable, because they Justifie it under such a Colour.

As to the Advertisement of it hither by the Deputy and Counsel; Shall their Advertisement, of what was done Unjustly, make it Just?

Besides, my Lord of *Strafford* takes on him the Encouragement of the Contracts; for, there is one Proposition that (in case we remove) they may have liberty to surrender their Patents, which is a strong relish of my Lord of *Strafford*: For else, Why should they desire no longer to continue the Grant, then they may have his Protection to Whip, and Pillory Men? And, the truth is, he is the sole Man that hath the Benefit of it, and the rest are his Servants; And, they will desire Mr *Little* may be examined to that point by and by.

He added, That his Lordship had a Weak Defence, else he would not have fled to such a Buckler, as an Act of Parliament, certified from Sir *Christopher Wainsford* the Deputy of *Ireland*; that he thinks it fit to pass, who was one of them that Acted at the Council-Table, so far as his part came; but, it was never propounded to either of the Houses. And, where my Lord sayes, A Proclamation may be made, till an Act of Parliament make it more lasting; Mr. *Maynard* said, Yet he hoped, by no Law in *England*, a Proclamation may take away the Goods of the Subject: That there is a Right in Proclamation he will never speak against; but, it is no Temporary Law to raise a *Monopoly*.

And, whereas he sayes, *Tobacco* yields no where so good a Value as in *Ireland*, that's nothing to the Point of Buying; that when the Subject may have 2 *Shillings*, my Lord of *Strafford's* Agents shall have it for 6^d, and sell it again for 2 or 3 *shillings*.

My

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My Lord sayes, The Contractors are out of Purse 6000 *l.* and 'tis but said; And that will not abate the Testimony.

For *Kinsale*, the Witness being an understanding Man, says, That in that one Port there comes in 200 Tun; and whereas it is said, There comes none, in a Manner, in any other Port, Why then hath my Lord Five Magazines of *Tobacco* at several places? Nothing is offered by way of Defence: And he that shall Justifie such things by the Commands he hath produced, doth exceedingly Justifie our Complaint in that Point; for, were it not that by Misinformation, the Subject is left Remediless at Law, he might be holpen there: but, when my Lord of *Strafford*, and other Great Officers there shall use the King's Name, *That's* our Trouble, therefore their *Profit*: And, therefore, though my Lord makes light of it, it will come heavy at the last, and is a great breach on the *Property of the Subject*, Sole-emption may be made of all things else.

Mr. *Glyn* desiring to add a Word, observed, That Two things my Lord of *Strafford* mainly insists on, to Justifie his Actions. *First*, That the House of Commons desired the Revenue might be unfettered, by taking off the Leases in being; And Urges, That they intended the Lease of *Tobacco* among the rest, which appears not: But admit it, their Intention was to take off the Fetters and Ingagements from the Kings Revenue, that the King might make the best of it; not that others should feed on what was His, and he in the mean time want.

Now their Lordships may observe, how my Lord of *Strafford* executes these Intentions; he gets a Lease of it, but doth not he retain the Kings Revenue, being worth 100000 *l.* a year to himself for 5000 *l.* if the Witness speaks truth? So it falls on his own head, and is a plain deceiving of the King. There is a Letter, which Answer is made to; but, if their Lordships recall to Memory what the Letter was, it was as just as could be, to take a course for Preemption of *Tobacco*; no, they afterwards enter into Consultation, and Advice, what should be done: And, What do they? They lay a Restraint that no Man should Import unless they would Sell unto my Lord of *Strafford*, at his Rate, and so it is executed to Tyranny over the People.

There is another thing my Lord insists on: Is the making of a good Bargain Treason? But, out of the making of this Bargain, if their Lordships well consider it, They shall find a double Treason to result; *First*, Exercising an Arbitrary Power, by laying what Tax he will, for he may lay 19 *Shillings* as well as 6^d. *Secondly*. His depriving the King of His Estate, under Colour of Advancing His Revenue, which is to deprive the King of His Government: For, if one takes away my means of Livelihood, and defence against an Enemy, it is a killing of me round about, though it were a more immediate killing of me to run me through.

If he take away the Kings Livelihood and Just Revenue, whereby He is enabled to Govern and Protect His People, Is it not to take away the Government out of His Hand?

And one word Mr. *Glyn* desired to add from something that fell from my Lord of *Strafford*, by way of Prevention, concerning the Parliament of *Ireland*: We live under one King, and one Government, and no doubt ought to be sensible of one anothers Honour, the Parliament of *England*, and the Parliament of *Ireland*.

Here

Here is an *Article* against my Lord of *Strafford*, for endeavouring to put Him out of Opinion of Parliaments: In this Assembly, where the Commons and Peers are Assembled he hath endeavoured to blast a Parliament: In the next Kingdom he talkes of a Tyrannical Government, an Arbitrary Power: (these were his Words in effect) Is not this as much as in his Power to cast a Blast and Ill Affection (in any Man that hears him) on the Parliament of *Ireland*? And he that will do it in the presence of a Parliament, in *England*, What will he do of a Parliament of this Kingdom, in the absence of a Parliament, and when there is no Parliament Sitting?

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*And so Concluded the Twelfth Article, and the House
was ADJOURNED.*

THE

T H E Thirteenth Article.

The Charge.

Article XIII.

Charge.

13. **T**hat Flax being one of the principal and Native Commodities of that Kingdom of Ireland, the said Earl having gotten Great Quantities thereof into his Hands, and growing on his own Lands, did Issue out several Proclamations, viz. The one Dated the One and Thirtieth of May, in the Twelfth of His Majesties Reign; and the other Dated the One and Thirtieth day of January, in the same Year; Thereby prescribing and enjoining the Working of Flax into Yarn and Thread, and the ordering of the same in such wayes, wherein the Natives of that Kingdom were unpractised and unskilful: Which Proclamations so Issued, were, by his Commands and Warrants to His Majesties Justices of Peace, and other Officers, and, by other Rigorous Meanes put in Execution; and the Flax Wrought, or ordered in other manner then as the said Proclamation prescribed, was Seized and employed to the Use of him and his Agents: and thereby the said Earl endeaboured to gain, and did gain in effect the Sole Sale of that Native Commodity.

April 1. 1641.



He Thirteenth Article was this Day Read and Opened by Mr. Maynard, concerning *Flax*, one of the *Native Commodities* of the Kingdom, which my Lord of Strafford, by several Proclamations, enjoined the *Natives* to work into *Yarn*, in a way wherein they were Unskilful; and Prohibited the Buying of any *Yarn* of this *Flax* otherwise made; and upon this occasion, much was Seized: So that by the Complaints of the Commons, it appears, that Thousands were Undone, their Goods being

taken away, and Converted to my Lords Use.

For Prooffe,

The Second Proclamation of *Deputy* and *Counsel* was Read; wherein the first is Recited, Importing in effect, That by reason of the multiplicity of ends in *Yarne*, there is much confusion; That for remedy, a Proclamation

clamation Issued the last of May last, which hath taken good effect: and, in regard some ill-disposed persons have nevertheless contracted for Yarn at cheap and low rates, though not made according to the first Proclamation; That therefore the said first Proclamation be strictly observed, and that none presume to buy any *Linnen-Yarn*, but shall be Reeled on one end, and no more, &c. That if any person shall, after the first of April next, offend, contrary to this Proclamation, he shall be proceeded against at the Council Board, or Castle Chamber: Some are appointed to enquire of Contempts, to whom Recompence is promised. Given, &c. 31 Jan. 12 Car. 1638.

Article XIII.

The *Natives* not being able to apply themselves to his Commands, a Warrant went to Seize the Goods, made, or brought contrary to this Proclamation; so that People forbore the Markets, durst not sell none openly, and so could not pay their Rents.

The Warrant was produced under my Lord of *Straffords* Hand and Seale, which his Lordship affirmed, being in effect,

By the Lord Deputy *Wentworth*.

TO all Justices of the Peace, &c. Whereas Benjamin Crocky is Authorized to inform himself, and advertise the State, of Abuses and Contempts committed and done, against a Proclamation made for Reformation of the Abuse of Spinsters of Linnen Yarn, and to stay all Yarn made contrary, &c. till Our pleasure be further known: And whereas he now informs us, he cannot discharge that Trust, in regard diverse persons do privily, in their own Houses, and not in open Markets, make Sale of their Yarn; and though he hath desired Assistance of Publick Magistrates, yet they have failed to afford him the same, in that measure that is fitting: In consideration whereof our pleasure is, and we do hereby require and authorize you, to be aiding and assisting to Benjamin Crocky and his Deputy, To seize on, and take all Yarn which shall be found to be made contrary to the said Proclamation, and to cause diligent search to be made in all Houses, &c. where you shall be informed any such Remaines lie hidden, and the same to seize and bring to Dublin, to be disposed of, as We shall direct the Party delivering it, taking Crockies hand for Receipt thereof, &c.

To prove Execution of it.

Benjamin Crocky Sworn, was Interrogated, Whether he, by vertue hereof, hath Seized any Yarn, and how much? and how it was disposed of?

Benjamin
Crocky,
Witness.

He Answered, That his Deputy did Seize Yarn, and it was taken from him by means of *Joseph Carpenter* the Steward, who received the Yarn into his Custody, and converted it into my Lords Loomes. He doth not know what quantities, but it was a great parcel; And, he thinks, it was to *Carpenters* use, but most part of it unto my Lords. Further, this Steward did employ *John Townesend* to buy Yarn, contrary to the Proclamation;

Ccc

He

Article XIII.

Sir John Clotworthy Witness.

He also employed others to Buy some for my Lords use and his own.
This he knowes.

Sir John Clotworthy Interrogated, What he hath known done in Execution of these Commands, being a Justice of Peace?

He Answered, That he had formerly heard of this Proclamation; and another Dated in May, concerning the Yarn business, That there was this same, or the Copy of this same Warrant, under my Lord Deputies Hand, brought to him, being a Justice of Peace; and he required to give Assistance in it: That he sent for the People that had been Distressed in the business, and likewise the Party employed by this Crooky, and one White named in the Proclamation, to know, by what Authority they put this in Execution? Thereupon they produced both the Proclamation and this Warrant.

That he conceived, there was an Extrajudicial proceeding in it, and therefore took Examination of it; and found, in the putting of the thing in Execution, That whereas there was a Clause in the Proclamation, *They should Seize on all Yarne, that was not an Hundred Threads every Skean, and should Seize on it when they found it short of this.*

That having taken the Examinations, he sent them up to my Lord Deputy (they being now out of his head) with a Letter, Declaring the Abuse of the Business: That he heard nothing in Return of the Business; but was Severely Threatned; and received a Letter from Mr. Secretary Little, then my Lord Lieutenants Secretary: That it was very ill taken, that he interposed in any thing, wherein my Lord was concerned: And my Lord Rainalough had much adoe to keep off a Serjeant at Armes to be sent for him.

E. of Strafford.

My Lord of Strafford desired the Letter might be shown: But, Sir John Answered, That it was Written four or five years agoe, and he did not keep it; but, if Mr. Secretary Little be Interrogated, he doubts not but he will Acknowledge it.

L. Rainalough.

Lord Rainalough being Interrogated to the same effect?

He Answered, It is true, he was at Dublin when some Information had been given of Sir John Clotworthy, for something had been done in the Yarne business, and that he apply'd himself to Sir George Ratcliffe, to desire him to preserve Sir George from an ill Office, and Sir George moved in it accordingly, so that Sir John escaped trouble at that time: For the Execution of the Warrant about the Flax, that he knows is this White, or his Fellow, or one of them, he knows not whether; but, he coming to the Fair of Athlone (where the Lord Rainaloughs Residence is) gave a Deputation to John Dennis, a Soldier of my Lord Wilmots; and, that within little time after, several Complaints were brought to him, as well by some of the Townsmen of Athlone, or divers of the

Country,

Countrey, that this *Dennis* had seized on a great deal of *Tarne* in the Shops in the Town, and abroad in the Countrey.

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That he sent for the Soldier, and Asked him, By what Authority he did so? who thereupon shewed the Proclamation, a *Warrant* from my Lord Deputy, and such a kind of *Warrant* as this; (whether a *Warrant*, or a *Copy*, he cannot say): That he Examined what proportion of *Tarne* he had taken; and, he told the Lord *Rainalaugh*, he had as much as a Cart could carry: Asking him what he would do with it? the said *Dennis* answered, He would carry it to *Dublin*: And he asking him farther, What he would do with it there? He told him (the Lord *Rainalaugh*) he had direction to deliver it to Mr. *Carpenter*, my Lord Deputies Steward: That he, the Lord *Rainalaugh*, medled not with it, but thereupon posted a Gentleman to *Dublin*, that had ready Access to the Deputy, and told him the Complaints, and this abuse, by Execution of that *Warrant*: and, that though it was not agreeable to my Lord of *Straffords* intentions (he conceived) to have them used, he thought fit to Represent them: Thereupon, He the Lord *Rainalaugh* went to *Dublin*.

Sir *John Clotworthy* being Interrogated, what he knows about breaking open of Chests, for finding of *Flax*, or any thing of that Nature.

Sir *John Clotworthy* Witness.

He Answered, That (as it hath been laid open) immediately on the Issuing of these Proclamations, and these Mens going abroad. The Markets were deserted, and little came to the Markets at all, though it were the most Native Commodity of the Kingdom, and paid most part of the *May-Rents*; For, it is That the Women work on all the Winter-Season: And, when the Markets were deserted, people were fain to bring their *Tarne* into houses, and sell it under shelter, where they might not be seen, nor these Fellows Seize on it; That thereupon these Men would come to Justices of Peace, and Officers, and they came to Sir *John* himself, and though he would not assist, they would threaten the Constables, and break open Chests, and thereupon he the said Sir *John Clotworthy* took away *Tarne* from them, and restored it to the Proprietors. This was done in the Town and County of *Antrim*: that he cannot tell how long it is since; but, it was in pursuance of this *Proclamation* and *Warrant*.

Being Asked, Whether the People were not ready to rise in Tumults and Uproares, where these were Executed?

He Answered, That it made very great Disorder, and great Reason for it; for, they took away all they had provided for their Half years Rent, and many people, even Multitudes, starved.

Lord *Rainalaugh* being Interrogated the time, Answered, He could not tell the certain time; but, my Lord of *Strafford* did withdraw it himself.

L. *Rainalaugh* Witness.

Article XIII.

Mr. Gough,
Witness.

Patrick Gough being Interrogated, Where he had the Remonstrance of the House of Commons?

He *Answered*, It was delivered him the 25th of February, in the Commons House of Parliament in *Ireland*, the whole House Sitting: to be transmitted to the Committee for *Irish* Affaires here, with many other things.

Which Remonstrance was Read, being, in effect, the most Lamentable Complaint of the *Knights, Citizens and Burgeses* chosen for the Provinces of *Conaught*, and *Ulster*, touching that most Cruel Extortion, or rather Robbery committed by a Company of *Pursuants*, sent abroad to Seize *Yarne*, by Colour of divers Proclamations by the Lord Deputy, January and May, 1636.

I. **T** He said Pursuants came into all the Publick Markets, and seized on all the Linnen-Yarne and Clothing, by which the Markets were destroyed.

II. The Merchant was forced to meet the People at their private Houses; which they understanding, way-layed the People, and took away their Yarne, and Cloth, and seized on what the Merchants had bought.

III. When any came to the Markets, they went to the Houses of poor people, and took up the Hatches where their Cloth lay, and seized on all, leaving not so much as to cover their Nakedness.

IV. They took away all the poor peoples Iron Pots, on pretence of another Proclamation, so that on this great Cruelty, which exceeded Pharoes, the poor Children were forced to go into the Fields, to eat Grass with the Beasts of the Field, where they lay down and died by Thousands; If it be deny'd, it will be proved by Twenty Thousand: and the Judges of Assize, &c. procured my Lord Lieutenant to Recall all the foresaid Proclamations.

Mr. Fitzgarret
Witness.

Mr. Fitzgarret being Interrogated, as to the Value of this Commodity, to the Kingdom of Ireland?

He *Answered*, That he hath known the Province of *Ulster*, and had occasion to converse with the best of it for 24 years last past: That he was for 8 years imployed in the Circuit for these parts, and observed, the Natives made a very great Commodity of *Yarne* and *Linnen-Cloth*: That he may safely call it the Staple-Commodity of that part of the Kingdom; That the Merchants buying their *Yarne*, and transporting it to *Lancaster*, it was a very great Commodity, and many lived on it; That the Proclamation and Execution of it (as he was informed by a man of very good rank) Impoverished the whole Province, especially the *Irish Natives*, of whom few have Lands or Estates, but live as Tenants; and the Lands there not yielding Wheat or Barley in abundance (as other Countries) they convert the best Lands to the sowing of *Flax*, and make a very great Commodity of it; That he had continual conference, especially in Term-time, with the

the best in those parts, and especially Mr. Robert Braithwait, Agent for my Lord of *Essex*, and Dr. Cook, of whose two Towns, one is supported by this Commodity, and Dr. Cook said, there hath been a hundred pounds worth of Yarn in a day sold and bought in that place, and by this means the Markets are wasted, the People impoverished, and that he the said Dr. Cook thinks in his Conscience, many thousands are famished by the scarcity of Money that ensued on the seizing of this; and the extremity was such, that one of the Deputies of those mens authorising, went into the house of a Scotchman in the parts of *Ulster* (himself being in *England* or *Scotland*) would open the Chests, and used such cruelty, that they thrust a stick into the Womans throat, and she died of it, and the man was tried for it, as he was informed.

Article XIII.

And so Mr. Maynard concluded the Charge, supposing it to be sufficiently proved.

Mr. Maynard.

After a little respite, my Lord of *Strafford* made his defence in substance as followeth.

That in this Charge, he hears something tending to Oppression, but nothing at all towards Treason, for which he is only to answer.

That the intention of these Proclamations touching Yarn, was certainly very good, and he thinks the power very lawfully executed, being but temporary, to take away an abuse, and make it better for the Common-wealth.

That he conceives not, how these Proclamations should be particularly laid on him, for he hath very good company goes along with him, being set out by the Deputies and Council, and affixed to them the Hands of my Lord *Loftus*, the Lord Primate, the Archbishop of *Dublin*, Earl of *Ormond*, Lord *Dillon*, Sir *Adam Loftus*, the two Chief Justices, and others: That he had rather answer all, than impute any thing to any body else, but he believes their Lordships will conceive he is not particularly answerable, for things done by the advice of the Council, as for the best.

That he conceives they had power to issue these Proclamations, as in other things was frequent, as in Drawing by the Horse tail, burning the Straw, and so taking the Corn from it; to bring them from these Irish Customs to the English Manners: So in this, that their winding of *Tbread* might be brought off with more conveniency, as being of so much more value; for the unwinding was as much trouble as the thing was worth, so that the authority was lawful, and well executed in the granting of it.

He craved leave to tell their Lordships wherefore it was, being desirous to regulate this business more than any other thing whatsoever; And it was out of that Duty and Service he did, and ever should owe to the English Nation; however for the present, he may not be thought one, he had those affections, and shall have to his death, to wish the Kingdom all prosperity and happiness, in all the parts of it.

That at his coming over, he did observe, the *Wooll* of that Kingdom did increase very much, that if it should there be wrought into *Cloth*, it would be a very great prejudice in time to the Clothing trade of *England*, and therefore he was willing, as much as he might lawfully and fairly, to discourage

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discourage that Trade : That on the other side, he was desirous to set up the trade of *Linnen cloth*, which would be beneficial there, and not prejudice the trade of *England* ; But it was extreemly to his loss, for he says he lost 3000 *l.* and the Stewards Chamber being searched, and it appearing so, the Accounts were delivered back again ; so that he conceives they had lawful power so to do, till a Law might make it more certain and settled ; and then he is answerable for nothing in all the rest, because the execution was nothing to him, and the abuses of the Officers he is not to answer for, of whom *Croky* was the principal Executor, and if there was an Offender, he is the greatest Offender himself, and my Lord *Rainalagh* tells their Lordships plainly and truly, that upon complaint of the ill execution of it, it was absolutely recalled, and that within two years : so if it were a fault, he was not incorrigible, but willing to amend it on the first notice.

For the Warrant, there is nothing proved of any thing amiss in him, but it goes only to second the Proclamation, and that there should be assistance in the due and just execution of it : only it says the *Tarn* shall be brought to *Dublin*, there to be disposed of, as he should direct ; but there is no proof of any brought to him, only my Lord *Rainalagh* mentions a Cart-load brought to *Dublin*, as the fellow told him ; and *Croky* says, some was brought to *Dublin* (but he knows not how much) and it was converted partly to his use, partly to *Carpenters*, but he is a single witness ; whereas my Lord *Rainalagh* says, there was taken at *Athlone* (as he was told) a Cart-load of *Tarn*, and Sir *John Clotworthy* says, they starved by multitudes in *Ulster* ; my Lord of *Strafford* said, he could not conceive how so little a quantity taken in *Conaught*, should be an occasion of starving multitudes in *Ulster*, nor the small quantities taken by *Croky*, but if there were so many starved, it must be occasioned by some other means than this.

That his Looms should be an occasion of starving so many men, he conceives very strange, for in truth, the value of Cloth made in those Looms in a year (which he left his Tenants to manage) was not, as he remembers, above 16 or 1700 *l.* and if their Lordships consider the value of the *Tarn* with the Labour, they would wonder the making of such a quantity in a year should starve so many thousands.

It is very true, (he said) he's sorry for that Remonstrance, read of the Commons House in *Ireland*, thinking he had merited a better opinion in that Kingdom ; but howsoever they have been informed, he doubts not, but when things are shewed them more clearly, than they have been hitherto, he shall have their good opinion still ; he never in truth, doing or saying any thing in all his life, but with very clear and faithful intentions to the good and prosperity of that Common-wealth and Kingdom ; his Lordship added, That he had some little fortune amongst them, not great indeed, nothing near that which is reported, hardly the fifth part, but something he had there, honestly and justly come by, and for that reason he had cause to wish well to the Kingdom ; and it grieved him extreemly to hear such a Remonstrance read : there would be a time he hoped, when he should have means to give them better satisfaction ; but it is but a charge, and cannot (under favour) be the proof of a Charge, being only received by information of witnesses, and no Oath being given by the Commons-House, he conceived it could not be made a proof against him, but the truth of the Charge comes to be examined ; for the Remonstrance says, that these things will be proved by 20000. To which he can say nothing, but that he is infinitely sorry, he should be so mistaken

ken in that Kingdom, where (to his best understanding) his Conscience tells him he hath deserved very well (with modesty be it spoken, his Lordship added) of them all, and desired to do Justice amongst them, and there would come a time when he should be better understood, as well there, as here he hoped.

For the testimony of Mr. *Fitzgarret*, he speaks nothing of knowledge, but what he hath been informed and heard, and what hath been credibly reported to him, and those are no proofs to be judicially taken, as he conceived, nothing being by Mr. *Fitzgarret* spoken, but by report; and their Lordships have heard this reported as well as he, yet knew not whether it be true, further than is proved.

So he concluded where he began, something may look like an oppression in them that did execute it, but nothing as to himself and the rest of the Counsel, who issued the Proclamation on just and warrantable grounds, and according to that power they had from the King, which he conceived was a full and clear acquittal of him (humbly submitting to their Lordships better Judgements) of this Article, so far forth, as it amounts in any kind, to convince him of High Treason.

To which Mr. *Maynard* made reply in substance as followeth, And first he observed,

Mr. *Maynard*.

That my Lord of *Strafford* was still striking on the same string, here (said he) is no Treason, though something tending to oppression, and so at this rate, he can never want an answer: for if this be not (in this particular) as high and wilful an overthrow of the fundamental Rules and Justice of the Kingdom, as can be imagined, I appeal to your Lordships: and that is it wherewith he is charged, not as if this singly would amount to Treason: And

Whereas his Lordship says, *his intention was good*, if (when an oppression of High Justice is committed) it be enough to say, *he had a good intention*, it is a good defence to take away mens Goods, and apply them to his own use; and so this being practis'd by him universally, on a whole Kingdom, may be excused by a *good intention*: But God knows the heart, your Lordships are Judges of his actions and oppressions. He says the Proclamation was a Temporary Law to take away Goods, break open Houses, forbid and annihilate Contracts; this he says in the face of the Kingdom; so that there cannot be better evidence given against him, than comes from his own mouth: for that, which is put upon him, is, That he would erect a Government that depends meerly upon Will, and take away that which is obliged to Laws. To say a Proclamation is a Temporary Law, is to make a Law, as long as it pleases them that award the Proclamation to continue: for when shall it have an end, but by the pleasure of them that send it forth? He would excuse himself, that he hath gone in good company: Did the Commons insist on this, as a single misdemeanor, my Lord might say, he is not the only man that deserves punishment, but he cannot say, but that he is the Principal man, and indeed, and in effect the sole man, as it will appear in the answer to the rest. They are too blame that follow his misguidance, but he is not innocent that draws others into such actions with him.

Mr. *Maynard* observed the nature of the Proclamation, it was not to appoint a regulation, but to take away the Subjects Goods; neither

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ther giving them time to vend the Commodities in their hands, nor to depart from that (if it were an ill usage) but forthwith, as soon as the Proclamation was out, the Goods must be seized, because they did not doe the things they could not doe.

He saith the Execution is nothing to himself, but to his Agents. Surely, he that will command unjust and evil things, is not a whit less guilty, because he hath Ministers, that will apply themselves to his pleasure, to execute unlawful Commands. He commands, they execute it; and when they had executed it, they bring it to his Looms, that is, to his profit.

He says it was recalled after two years or thereabouts, but your Lordships may remember, on what misfortune and cruelty it was recalled, the tumults, the stirs, the oppressions it did produce: and his recalling it after two years, makes him not innocent before, when 1000 or 2000 or 3000 had perished by the oppression of it; he was not innocent, because 10000 or 12000 did not perish; it was too long kept on foot, and he that doth unlawful things in so great a measure, is not to be excused, because he cannot bring them wholly to pass. For that's all can be said, He could go no further, and therefore he leaves it off.

He says, his Warrant is not amiss, but it is extreemly amiss, for the Minister should advertise the State touching the Subjects Conformities; but my Lord of *Strafford* will have them presently enter the House, and seize the Goods: the Proclamation puts them on it, but the Warrants command Justices of Peace, and all Ministers of Justice, to come in and countenance this cruelty; and when they did not conform to it, they had reproofs from my Lords servants. And if the point were only to produce witness, that the Flax or Yarn came to my Lords own hands, it might be despaired of, but when the profit comes to his hands by his Agents, and those set on work by him, it is no excuse to say it was done by others.

Mr. *Maynard* said further, he wondred my Lord should say, there was no proof, when there were two expresse witnessles; my Lord said, he heard but of a Cart-load, Mr. *Maynard* answered, he heard not the word, but he heard of about a Cart-load, and could that starve 1000 men? yet if a Cart-load be not sufficient to starve 1000 men, if there be more than 1000 starved, then more than a Cart-load was seized. At that time there came in but a Cart-load, but there came in by good quantities, when it came in by Cart-loads.

He says the Remonstrance is but a charge, but it comes in on good proof, and it is concerning a whole Province, and (as it is likely) they were there that knew of the miseries that befell the Provinces.

Mr. *Maynard* further observed, that heretofore in the matter of *Tobacco* he told your Lordships, he had a command; it was expected, he would have produced something to the purpose now, but God be thanked he hath not: he says *Tobacco* is a superfluous thing, but these things that are for clothing are not superfluous, and being he hath gone into this excess, Mr. *Maynard* concluded with this, that he must leave him to their Lordships Judgements, for he had made an excuse, tho that he said did not reach an excuse,

And whereas my Lord said, the Cart-load of Yarn was taken in *Connaught*, not in *Ulster*.

Mr. *Glyn*.

Mr. *Glyn* added that one thing was observable from my Lord of *Strafford*'s own evidence, which seemed to convince him of what he denied. He pretends this was for advancement of Trade, not for his own use, and that there was but 1700 *l.* worth made in a year, but himself calling his

his Accompts says, he lost 3000 l. so he owns it by the loss, but not by the benefit, which convinces the principal point himself denies.

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Here my Lord of *Strafford* desired leave to explain himself, that (when he said he lost 3000 l. and 1700 l. a year made of it) he said he made Cloth there 6 or 7 years as he took it, and the Cloth it self, not the Yarn, was worth 1700 l. for the Yarn was not worth 400 l. and in that time he might very well loose 3000 l.

And so the Thirteenth Article was concluded, and the Fourteenth Article being for the present laid aside, the Committee proceeded to the Fifteenth Article.

D d d THE

T H E

Fifteenth Article.

The Charge,

15. **T**hat the said Earl of Strafford, traiterously and wickedly devised and contrived by force of Arms, and in a warlike manner to subdue the Subjects of the said Realm of Ireland; and to bring them under his tyrannical Power and Will, and in pursuance of these wicked and traiterous purposes aforesaid; The said Earl of Strafford in the eighth year of His Majesties Reign, did by his own authority, without any Warrant or colour of Law, Tax, and Impose great sums of Money upon the Towns of Ballymore, Bandenbridge, Talo'we, and divers other Towns and places in the said Realm of Ireland, and did cause the same to be levied upon the Inhabitants of those Towns by Troops of Soldiers, with Force and Arms, in a warlike manner. And on the Ninth day of March, in the Twelfth year of His now Majesties Reign, traiterously did give authority unto Robert Savill, a Serjeant at Arms, and to the Captains of the Companies of Soldiers, in several parts of that Realm, to send such numbers of Soldiers, to lye on the Lands and Houses of such as would not conform to his Orders, until they should render Obedience to his said Orders and Warrants, and after such submission (and not before) the said Soldiers to return to their Garrisons. And did also issue the like Warrants unto divers others, which Warrants were in Warlike manner with Force and Arms, put in execution accordingly, and by such Warlike means, did force divers of His Majesties Subjects of that Realm, to submit themselves to his unlawful commands.

And in the said Twelfth year of His Majesties Reign, the said Earl of Strafford did traiterously cause certain Troops of Horse and Foot, Armed in Warlike manner, and in Warlike array, with Force and Arms, to expell Richard Butler from the possession of the Mannor of Castle-Cumber, in the Territory of Idough, in the said Realm of Ireland, and did likewise, and in like Warlike manner, expell divers of His Majesties Subjects from their Houses, Families, and Possessions, as namely Edward O Brenman, Owen Oberman, John Brenman, Patrick Oberman, Sir Cyprian Horsfield, and divers others, to the number of about an hundred Families, and took, and imprisoned them and their Wives, and carried them prisoners to Dublin, and there detained until they did yield up, surrender, or release their respective Estates or Rights.

And the said Earl in like manner, hath, during his Government of the said Kingdom of Ireland, subdued divers others of His Majesties Subjects there to his Will, and thereby, and by the means aforesaid, hath levied War within the said Realm, against His Majesty, and His Liege People of that Kingdom.

Mr. Palmer proceeded to open the 15th Article, which concurred with the precedent in point of Evidence, to make good the Charge of the Commons against the Lord of Strafford, in point of High-Treason. The main Accusation being, his labouring to subvert the established Laws and Government, and instead of them, to introduce an Arbitrary and Tyrannical Power.



HAT this laid in the 15th Article, doth more than prove this Charge, charging him with Acts of Force and Hostility, which are not only an Evidence to prove his design, but are actual subversions of Law, and introducing of an arbitrary Power, as their Lordships will perceive, when they shall hear how he executed his Commands by Soldiers.

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Charge.

Mr. Palmer.

And as this contributes with the rest in proof of the main Charge, so he humbly offered, that this Article, singly and in-

dividually of it self, contained a Charge of High Treason, and that the nature of the offence would appear in the proofs of the Article.

The Article is first general, That he did traiterously devise, to subdue the Subjects of the Realm of Ireland, by force of Arms, in a Warlike manner, under his tyrannical Power and Will.

In pursuance of these things that are charged in the Article; the first they said, they would pass over at that time, and my Lord of Strafford also had notice, that they intended to waive it for the present.

The Second is, that 9 March 12. of the King, he gave a Warrant to one Savill, a Sergeant at Arms, and to Captains and Soldiers of that Kingdom, to Quarter on the Houses and Lands of such, as would not conform to render Obedience to his Orders, such number of Soldiers, as the Sergeant at Arms should think fit, according to the demerit of the Delinquents, and to be kept there, until they made submission, and then to return, and not before. And the like Warrants were issued to others, and to the Subjects of that Realm, who were forced to submit to his illegal Commands, and this is charged to be a levying of War against the King, and his People.

Your Lordships may please to remember, what a Power my Lord of Strafford had assumed to himself from the Courts of Justice established by Law, in taking to himself an Arbitrary Power, to determine Causes on

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Petitions, and that without any legal Process. And he intended to himself, an execution of these Orders in this manner. If a Petition was presented, First a signification went to the Party, that he should satisfy the complaint, else shew cause; if he did not appear, then there went a Messenger, or Pursivant; on his *Affidavit* that the Party was not found (as well he might not be found) then an Attachment: after that, the Sergeant at Arms. This Sergeant at Arms had always with him a Warrant *dormant*, (not a particular Warrant in the Case complained of) that whensoever he should have an Order to fetch any man in (if once he had made *Affidavit* he could not be found) he was by virtue of that Warrant, to repair to the next Garrison, and there to take such numbers of Soldiers, as he thought fit, and quarter them on the House of the Party: and this was as ordinarily executed, as any powers of Law in legal Cases.

In the execution of this, the Party suffered as much insolencie, as is incident to War; their Catel taken, their Corn thrash'd out, their growing Corn cut, their Houses burnt, and some exiled, and forced to leave their Countrey, and flie to remote places, by reason of their Soldiers insolencies.

The method propounded is, First, to prove the Fact: then to observe the nature of the offence, both from the *Stat. of 25. Edw. 3.* and also from a particular *Stat. in Ireland 18 H. 6.* whereby the Offendor in this very case, is adjudged to be a Traytor.

Mr. Savill,
Witness.

Mr. Savil the Sergeant at Arms produced and sworn, and a Copy of his Warrant offered. My Lord of *Strafford* excepted against the reading of the Copy in a Charge of High Treason; adding, that it concerned him very much, he being to be tryed for his Life and Honor, since upon this the whole Charge was to be grounded. On other things he did not insist so much, but submitted to their Lordships pleasure, because they said they would consider them in their Judgement; but this being the ground and foundation, whereupon they intend to charge him with High Treason, he besought their Lordships to consider it, with that Honor, and Goodness, and Justice they did in all things.

Mr. Glyn.

Mr. Glyn in *Answer* alledged, that their Lordships had over-ruled it in the Case of the Bishop of *Down*. That (suppose a Warrant is offered by force, whereby High Treason is committed) if a Copy may not be given in evidence, then let him that is guilty in such a Case, get away the Originals, it clears him of the Treason: besides, it is no matter of Record: and Mr. *Maynard* observed, That if one writes a Letter, and therein commands one to commit Treason; if the Letter be burnt, this man shall not prove the Command, if only the Original must make it good.

Mr. Savill being asked what was become of the Original Warrant?

Mr. Savill.

He answered, it was in *Ireland*, he not expecting any question about this business, but this was the Copy of it, and under his own hand.

My Lord of *Strafford* offered to their Lordships, that he that is to swear it to be a true Copy, is the man, that (if a fault be committed) is in fault himself as much as any, for he is the man that executed this Treason, and now he shall swear to the justifying of his own act.

Mr.

Mr. Savill being (on my Lord of *clares* Motion) Asked, How they came by the Copy?

He Answered, He knew not how it came into their hands.

But, Mr. Palmer added, Now he sees it in our hands, and he knows it: And that this Copy cannot be questioned, unless he question what is done already; for, in this very Case, a Copy is allowed to be an Evidence, for the Relation it hath to the greatness of the Charge, as to my Lord of *Strafford*; and it cannot alter the Justice of the Evidence; for, if it be an Evidence, it is an Evidence in whatsoever the Cause is.

Mr. Palmer.

Mr. Savill being Asked, How he came to set his hand to the *Warrant*?

Mr. Savill.

He Answered, That in *January* last there came to him one *William Somer*, Secretary to my Lord *Rainalagh*, and told him; Mr. Sergeant *Savill*, you had a *Warrant* to Quarter Soldiers on one within the Town of *Athlone*, but the parties were Friends, and you removed them; one of those Soldiers committing Extortion, in taking away two Pewter Dishes, and is to be Tried at our next sitting; and, unless the Soldier have a Copy of your *Warrant*, he is like to suffer in it: That he thereupon Answered, He could not deny it; and brought the *Original Warrant*, and being a good Clerk, he bad him Copy it out.

He sayes, he desired you to let some of your own Men do it, and I will give him for his pains——

That he, the said Mr. *Savill*, did thereupon deliver the *Original Warrant* to his Servant, *Edmond Brumingham*, as he remembers, who Copied it out. That Mr. *Somer* came, and told him, Here is a Copy: That he asked Mr. *Somer*, Whether he had examined it? Yes indeed, saith he, it is a true Copy: That upon that, he the said Mr. *Savill* delivered this to Mr. *Somer*, under his Hand, but did not compare it himself, yet is confident it is a True Copy.

Mr. *Maynard* observed, That they Charged a Treason in an Act, That my Lord of *Strafford* gave Authority to do such a thing; not that he gave this Particular *Warrant*; and though they proved no Copy at all, yet proving the Command, it maintained sufficiently the Charge: for, a *Treason* may be a *Treason*, though not put in Execution. That they produced not this Copy, as necessary to give a precise Copy, but to prove that there was such a Command and Authority given; and, as a farther evidence, they shew a Copy taken on such an occasion: And, *Witnesses* are here, who will clearly Depose, That this is the very substance and effect of the *Warrant*, given under my Lord of *Straffords* hand.

Mr. Maynard.

Here my Lord of *Strafford* interposed; That it was Charged on him in particular, That on the 9th of *May*, in the 12th year of the King, he gave Traiterously, Authority to *Robert Savill*, &c.

L. Strafford.

But Mr. *Palmer* insisted, That they did not find much on Reading this *Warrant*; but, if the Authority was proved it was sufficient.

Mr. Palmer.

And

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Mr. Pym.

And Mr. Pym added ; That they could not wave any part of the Evidence , and therefore prayed it might be read.

Mr. Savill
Witness.

Mr. Savill being (on the motion of the Earl Bath) Examined, Whether this was the occasion of his coming over ? and, Whether he had not said, He had brought all his *Warrants* with him ?

He *Answered*, That by the *Oath* he hath taken, that he knew nothing of it, till the night he came to the City : That he had not said, He had brought all his *Warrants* ; for he had none ; and should have spoken an Untruth if he had said it : and he came on his own occasions, not sent for.

Being Asked, Whether he thought in his Conscience, That it was a True Copy ?

He *Answered*, Yes ; I am confident ; for the Substance of it.

To Determine the *Question*, their Lordships resolved to *Adjourn* to the House above.

Mr. Palmer.

Mr. Palmer desiring it might be Remembred, That the Copy was Signed by Savill's Hand ; That Savill was the Person to whom the *Warrant* was directed ; and, The Man that hath the Principal *Warrant* in his Custody ; That gave direction for the Copying of it ; and added, That himself was ready to prove the substance and effect of it.

Their Lordships *Adjourning*, and shortly after returning :

L. Steward.

The Lord Steward Reported their Lordships *Resolution*, viz. That their Lordships had taken into consideration this Copy, and thought of it seriously, and that in this individual Case, they held it not fit to be read, because it was not Attested : And that their Lordships, in no other Case since the Tryal began, had admitted the like Copy, but where it was Attested : That they conceived, this could be no Impediment, or failer in the proceeding, because the truth, and verity of it would depend on the first general power given to execute it, which they that manage the Evidence for the Commons, say, they can prove.

Mr. Palmer.

Mr. Palmer thereupon Alleadged, That they would apply themselves to their Lordships Directions : That the thing offered in Evidence had been executed ; That Soldiers (according to what was deposed to be the effect of this *Warrant*) have been Quartered on the houses, and Lands of such Persons, as have been Complained of on *Paper Petitions*, either in case they have not appeared, or after appearance, did not render obedience.

Mr. Savill.

Mr. Savill being Asked, What he did in that kind ? and, What *Warrant* he had for it ?

He *Answered*, That the *Warrant*, by Vertue of which, he laid Soldiers on several *Delinquents* Lands, was delivered to him by my Lords Deputies

Deputies Secretary, Mr. Edmonds (as he remembred) by Virtue of which *Warrant*, after five or six several times going for the *Delinquents*, when they could not by any means be brought in, he did (according to my Lord Deputies Command, make use of his *Warrant*, and layed Soldiers on them till they had submitted themselves: And, that the *Warrant* was given under my Lord Deputies Hand.

Article A V.

Being Asked, What he meant by *Delinquents*?

He *Answered*, thus; He ever observed on Complaints made to his Lordship, my Lord Issued his Command; This Command was served on the Party Complained of; And, on Return of that, Oath being made of it, that the Party gave not satisfaction, A *Warrant* was Issued to the Pursivant; On the Pursivants return (he not meeting with the Party) the Party possibly absenting himself, or Relcued out of the Pursivants hands, there is an Oath taken by the Pursivant, a *Warrant* given to the Sergeant at Armes, who goes in Person, or sends his Deputy three or four or five times, and when the Party cannot be got, then he lays Soldiers.

Being Asked, What he meanes by laying of Soldiers?

He *Answered*, That he was to go to the Captain, or Chief Officer of the next Company, or Garrison, to Complain of the Party he calls *Delinquent*, and show my Lord Deputies *Warrant*, and then he Commands them to rise with such a number, as he shall think convenient, and March to the Party Complained of, in whose House they lie, till they receive further direction.

Being Asked of the Questions severally.

He *Answered*; That it was by a General *Warrant* he laid Soldiers on *Delinquents*, and that he had a particular *Warrant* first, but when that was disobeyed, he used this General one, that the Soldiers might not March but with an Officer; That he did never see those Soldiers go on Service like Naked Men, but they had such Armes as were fit for Soldiers; That he hath seen them Armed with Muskets, Swords, and such furniture. That they have meat and drink from the Party they lie on, though (for his own part) he had never Meales Meat from him.

Being asked, Whether they lie on the Parties Lands?

He *Answered*, For that purpose they go.

Being Asked, On how many several Persons he had done it? and, Whether it was ordinarily done?

He *Answered*, That he had done it on several occasions; and that he was afraid that sometimes he should be Complained of to my Lord Deputy, in not putting it in Execution, when the Parties have thought

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thought he the *Deponent* hath been favourable without cause: That he had, on several occasions, executed his Command; as namely, he caused Soldiers to be laid on one *Francis Ditton*, likewise on one *Conolly*, and on *Luke Borne*, as he takes it, and some others, whereof he doth not remember the particulars: But, those Men could not be brought in by any other meanes, that he knew.

Being Asked, Whether it hath been done ordinarily on all occasions, and on Persons of Quality as well as others?

He *Answered*, That when he had my Lord Deputies *Warrant* in a general way, he never made any difference of Persons.

Being Asked, Whether by Horse or Foot?

He *Answered*, Never Horse that he knew of, unless in case of Necessity, when no Foot was to be had near them; And, that was but once.

Being Asked, Whether the Number was left to his discretion, or a certain number assigned?

He *Answered*, The *Warrant* sayes, he shall raise so many, as shall be thought fit in the discretion of the Sergeant.

Being Asked, Hath this been Executed on several parts of the Kingdom?

He *Answered*, Yes; as well in one part of the Kingdom as another, when the occasion served.

Being asked, Whether it was done by himself only, or another?

He *Answered*, There was none but himself, till the Lord Deputy, for the better Service of His Majesty, was pleased to direct another.

Being Asked, Whether my Lord Deputy ever spake to him, about the Complaints made of him?

He *Answered*, Never, In Good Faith; and he thinks my Lord will clear him of that.

Being Asked, Was there not Complaints made of his showing Favour?

He *Answered*, He must Confess there was.

Being Asked, What he said on that occasion?

He *Answered*, sometimes my Lords *Secretary* would demand, Why he would not put the *Warrant* in Execution? and he (this *Deponent*

ponent) would say , They were poor Men : but, it never came to my Lords hands, so far as he could remember. Article XV.

Being Asked, on my Lord of *Straffords* Motion, What number of Soldiers he commonly laid, and what was the greatest number usually?

He *Answered*, That the greatest number was Five and an Officer ; but, for the most part 2, or 3, or 4 ; but, of late, he hath heard of more.

Being Asked, Whether another had not a *Warrant* to the same purpose? and, How many he had laid?

He *Answered*, He never saw the *Warrant* ; but, he hath heard he hath, by Vertue of such a *Warrant*, laid Soldiers, but he knows not how many ; he not looking to the actions of others, but his own : and he wished it had all layen in his power still, and he had done well enough.

Patrick Gough being Asked, Whether he had seen such a *Warrant* under the Hand and Seal of my Lord of *Strafford*, whereby the Soldiers were Assessed, and under whose Hand ? *Gough* Witness.

He *Answered*, He had seen a *Warrant*, Signed by my Lord *Vventworth* on the top, and a Seal to it, directed to the Sergeant *Savill*, to the same purpose : that an *Affidavit* made to him of the absence of the Contemptor of the first *Warrant*, he might lay Soldiers on the Land ; And that he made search for it, and saw it in Secretary *Littles* Book, but it was long agoe.

Being Asked, What he knew of the Execution of this *Warrant* ? Upon whom? How many? and, Upon what Occasion?

He *Answered*, It was a constant course, on a *Command*, and *Affidavit* made of serving a *Warrant*, to the Pursivant, on the Parties failing, an *Attachment* was granted to the Sergeant, and a *Dormant Warrant*, that on his not finding him, he might lay Soldiers on the Land ; This was constantly practised during my Lords Government, as he obsered ; And particularly, upon one *Richard Butler* in the County of *Typerary* last Summer : And, no other cause could he learn or know, but not giving obedience to my Lord of *Straffords* Orders, The Original Contempt.

Being Interrogated, What Insolencies he had known committed by Soldiers in this Case?

He *Answered*, That he had heard, Soldiers were left on one *Bernes* Land, and they took other Mens Cattel that Grazed on the Lands, and killed them, and burnt part of the House (as he was told) and broke up the Hutches where he had his Corn, and sent it to the next Market-Town to buy Beer for them.

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Being Asked (on my Lord of *Straffords* Motion) Whether in his *Warrant* any Command was given to take other Mens Goods?

He Answered, He believed no such word was exprest in the *Warrant*.

Being Asked, Whether there was not Authority to lay Soldiers? and What was meant by laying of Soldiers?

He Answered, The *Warrant* Imports, That, on their Default, or Absence, the Sergeant at Armes may lay Soldiers on the Land, there to lye to feed on the Contemptors Goods, and live there till he surrender his Body to the Sergeant at Armes. Then the Sergeant gives notice to the Soldiers, that the Party is come in, and they go to their Garrison.

Richard Welsh
Witness.

Richard Welsh Sworn: Being Interrogated, Whether he had seen a *Warrant* under my Lord of *Straffords* Hand, for laying of Soldiers?

He Answered, That he had seen my Lord Deputies Hand Signed (if it was his Hand) *Wentworth*: as he had seen it to many Orders, being very well acquainted with his Hand: That he had seen his Hand to such a *Warrant*; that the Man that showed him the *Warrant*, was one of my Lord Deputies Troopers (by name *Patrick Brady*, who told him) he was going to fetch Soldiers by direction of Sergeant *Savill*, to lay on one *Francis Dillon*, who was in Contempt at this *Bradyes* own Suite: That the occasion he showed him it, was; That *Brady* was Indebted to him (the Deponent) and he (the Deponent) intending to Petition my Lord against him, *Brady* desired him to forbear it, for he had a good way to get Money, and shewed him the *Warrant*; he (the Deponent) saw it under my Lord Deputies Hand and Seal.

Being Asked, What was the Suit? He said, The Suit was on a Paper-Petition; for (as he remembers) 100*l.* and so *Dillon* falling into Contempt, a *Warrant* was issued to the Pursivant, and so, according to the practice, the Soldiers were laid on him.

Being Asked, What was the effect of the *Warrant* under my Lord Deputies Hand?

He Answered, That the effect of the *Warrant* was, That the Sergeant at Armes should bring upon the Delinquents (such as was in contempt) out of the next Garrison, Soldiers, with an Officer, and lay them on the Delinquents Lands, till he had rendered his Body.

Patrick
Cleare.
Witness.

Patrick Cleare Sworn: was Interrogated, What Execution he knew of my Lord of *Straffords* *Warrant*, to lay Soldiers?

He Answered, That he had seen no Execution done: but, he had a Letter sent out of the Countrey, by a Gentlewomans Son, and she desired him (the Deponent) to Petition, To have Soldiers that

that were laid on her Land discharged, it being onely for a Contempt, in not Appearing. That he got a Copy of the Petition, her Name being *Agnes White*, and therein the Petition'd my Lord of *Strafford* to have them discharged; and said, she was very old, and would die, if she submitted her self to any Sergeant at Armes. The Order was, That upon an *Affidavit* he would give other Direction. The Son made *Affidavit*, that she was 80 years old: On that, an Order was made, requiring Sergeant *Savill* to take off the Soldiers, and trouble her no more, she paying him his Fees. And he knew further, That Sergeant *Pigott* having an Attachment against *John Barrow*, who was gone away, by reason of certain Cruelties, sent after him, by Secretary *Little*, who threatened to put Soldiers on him, if he came not to compound with him for his Fees.

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Being Asked, How far the old woman lived from *Dublin*?

He Answered, In the County of *Kilkenny*, 40 or 50 Miles from *Dublin*, and this was four years ago.

Being Interrogated, What the Contempt was?

He Answered, That the Petitioner said, He was dammaged 500 *l.* by not performing Covenants; so she was commanded to pay 500 *l.* or else to shew cause to the contrary: She was an old woman, alwayes on her Bed, and did not appear, not knowing what belonged to Law. *Affidavit* being made, That she appeared not, nor gave satisfaction, an Attachment issued to the Pursivant; The Pursivant could not find her, on *Affidavit*. The Sergeant at Armes goes for her, and, not finding her, the first or second time; he layes Soldiers on her: And there they remained eating and drinking three or four weeks, till he got them discharged. And he heard by the Sergeant at Armes, that this was very usually and ordinarily done.

Being Asked, If *Pigott* had such a Warrant?

He Answered, He did not see the Warrant, but *Pigott* himself said, He would lay Soldiers on *Barrow*, if he did not submit and pay Fees.

Nicholas Ardab Sworn: Being required to deliver what he knew concerning laying of Soldiers in case of Paper-Petitions.

Nicholas Ardab
Witness.

He Answered, That he had heard of many, but never saw any but one, which was in the City of *Dublin*; One *Tho. Cusacke* of *Dublin* was seized by Sergeant *Savill*, with Corporal *Hamond*, and some others of my Lord Lieutenants Troops, for not obeying an Order within these two years and a half: That he saw the Horse, and the Pistols at their Sadles; there were two or three as he takes it.

Being Asked in what Case it was?

Ecc 2

He

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He *Answered*, A Merchant of *Manchester*, trusted with Money, or Commodities, and being not able to pay him, he sued him, and so far, that he got a *Warrant*; and this was before my Lord Deputy, on a Paper-Petition.

Being Asked, How long the Soldiers remained there?

He *Answered*, some three or four dayes, till the Man surrendred himself to the Sergeant at Armes.

Berne.
Witness.

Edmond Berne being Sworn, and Interrogated, How many Soldiers were laid upon himself, by vertue of this *Warrant*? and, For what cause? and, What Contempt? and, What was the loss? and, Whether the Soldiers were Armed?

He, in his several *Answers*, Deposed, That there came to his House Ten of my Lord Deputies own Foot-guard, and an Officer, in the County of *Wicklome* in *Ireland*, in the *Bernes* Countrey, 12 Miles from *Dublin*; That it was on the 17th or 18th of *October*, 1639, and they came on his Land, under colour of a Contempt, and there lay 15 dayes: In which time, they consumed and devoured all his Goods and Chattels they found at that time: They Thraht out three Ricks of Corn; one of *Wheat*, one of *Rye*, the other of *Oates*, which were very well worth 50 *l.* at the least: After they had Thrahted this Corn, and devoured the Victuals they found in the house and about the house, they sent some of this Corn to a Market-Town within three Miles, called *Bray*, and that they sold for *Tobacco*, *Aquavitz*, some *Beer*, and Victuals for themselves: And they would not be content with this, to satisfie themselves on his Goods, but they must bring in the Women of the Town, and made the Women drink, and offered to Ravish them, but that some of the Town came in to Rescue them: That after they had consumed all his Goods, they broke up his Tenants doors, killed their Geese, their Hens, and destroyed their Victuals; and when they had destroyed all his Tenants Goods, they came on the Town-people which were not his Tenants, and broke open their doors, and struck them, and eat their Victuals, and killed their Geese and Hens; and after they came to his Tenant, one *Timothy Wells*, they came on his Land, and understanding he was his Tenant, they took away 40 English Sheep, and brought them to his house, and there, that night, they killed two of them: That his Tenant understanding them to be there, referred himself to the Lord Chief Justice of *Ireland* then, and Petitioned, to this purpose, that is, my Lord *Dillon*, and Sir *Christopher Wainsford*, that Mr. *Wells*, which was his Tenant, had an Order to take away his Sheep from the Soldiers: and then the Soldiers Reply'd, That since he had got an Order to take away his Sheep, they were sorry they did not kill more of them: That they were not content to have Wood (which was for his the Deponents own fuell, and to destroy that) but they burnt his Partitions, his very House-door, sold his Trunck, his Bedsteads, his Dining-Table, and all they could light on

on in his house ; that after this time, he was not able to keep house, but left his Wife and Children to the courtesie of his friends, and was fain to flie his Countrey, and to serve in the *Low Countreys* as a Soldier ; that he may very well take it on his oath, that this loss was at least 500 l. out of his way, for he was not able to sow the Fallowes, and was fain to break up House and Home, and was never able to keep House since.

That this was upon colour of a contempt, upon a Petition preferred against him to my Lord Deputy, by Mr. *Thomas Archibald* for a pretended debt of a matter of Ten pounds, and these Soldiers were armed with Swords, Musquets, and Halbeards some of them.

Being Interrogated (on my Lord of *Strafford's* motion) whether he the Lord *Strafford* was then in *Ireland*?

He Answered, That before the Soldiers came on his Land, my Lord Deputy came to *England*.

But Mr. *Palmer* observed, that the Warrant was from my Lord Deputy, and Mr. *Palmer* added, that all will refer to the time of the Warrant dormant.

Being asked, what Warrant was shewed for laying on these numbers of Foot?

He Answered, That he durst not come in their fight.

But Mr. *Maynard* observed, that this was one of the men *Savill* did lay Soldiers on, and therefore it behoved to be by that Warrant.

Being asked, whether the Debt might not have been compounded for 5 l. and why he would not rather pay 5 l. than suffer prejudice to 500 l?

He Answered to the First, Yes. To the Second, That he conceived the Debt not lawfully due.

Mr. *Robert Kennedy* being Sworn and Interrogated, what he knew of the laying of Soldiers on the said *Berne*, and the occasion, and what they did.

He Answered, That one *Archibald* preferred a Petition against *Berne*, for a pretended Debt to my Lord Lieutenant, and (as his usual course was) his Lordship would referr the matter to the two next Justices of Peace uninteressed, and they to determine the matter by consent, if they could ; else to certify that the party bringing the Petition to him, the Deponent desired him to draw the Warrant according to my Lord-Lieutenants Order. They sent a Warrant for *Berne*, who appearing, they examined the business, and it was so trivial, that he the Deponent, desired them to compound it. *Berne* stood on it, that the Plaintiff ought to have none, and would pay him none. They certified my

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Mr. Palmer.

Mr. Maynard.

Mr. Kennedy.

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my Lord Lieutenant. After this Certificate, he (the *Deponent*) heard not of it, till he heard that Soldiers came to this Gentlemans Land, and hearing of it, and that some Tenants of his the *Deponents* were wronged by it; he came thither, and some of them he knew, and asking by what authority they were there? We come (say they) by Warrant of the Sergeant at Arms Mr. *Pigott*, That the *Deponent* thereupon said. Mr. *Pigott* hath no Warrant; Yes, say they, my Lord Lieutenants, and he directed us not to leave, till *Berne* delivered his Body for a contempt.

That he the *Deponent* Answered, Though you have a Warrant for lying on his Land, you have no Warrant to destroy his Goods, for they were selling his Corn, and loaded the Horses that went through the Town.

That there was to the number of 8 or 12 of my Lords Guard, armed with Pikes, and Guns, and Swords. But my Lord of *Strafford* he thinks was not then in *Ireland*, he was newly gone.

Being asked (on my Lord of *Strafford's* motion) whether he saw the Warrant under *Pigott's* hand?

He Answered, He did not, but the Soldiers told him, *Pigott* laid them on the Land, by virtue of my Lord Deputies Warrant.

Being asked, how long *Pigott* had been a Sergeant?

He Answered, About Ten years.

And whether there was any more than two?

He Answered, No more that attended the State; and Mr. *Kenneday*, added, that he wondred at the course, for he never heard of any such course before my Lord of *Strafford's* time.

Mr. *Palmer*.

Mr. *Palmer* here observed, that they were my Lord Deputies own Guard, which could not be but originally from him.

Mr. *Little*
Witness.

Mr. *Robert Little*, my Lord of *Strafford's* Secretary being sworn, was interrogated several questions, viz. Whether he had made out any Warrant by the Lord of *Strafford's* Direction, and under his Hand and Seal to *Pigott*, or any else, for raising Soldiers after this manner.

He Answered, That he doth not know that *Pigott* hath any such Warrant; nor doth he remember any such Warrant passed the Office if it did, it was by Precedents of former times, but in good faith, he doth not remember it.

Whether he made any such Warrant to *Pigott* to his knowledge?

Answered, That he never made any, or heard of any, nor knew of any.

Was one made to *Savill*?

Answer, He never made that to *Savill*, and he cannot tell whether there was one to *Savill*, or not?

Was there an Entrie of any Warrant in his Book to that purpose?

Answer

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Answer, That he did not enter them at any time, nor did he ever see any such Entrie or Warrant.

Mr. *Palmer* inferred from hence, That he said the same for *Savill* that he said for *Pigott*, and yet how publique a thing this of *Savill's* was their Lordships have heard, and it could not but come to his knowledge, at least his ear.

And Mr. *Maynard* observed, he swears that he never made any such Warrant, but if any were made, it was according to former Precedents.

But my Lord of *Strafford* *Answered*, That if any says he cannot tell, 'tis as much as he can say for another mans act.

Lord *Ranalaugh* being Interrogated, what he knew of this Warrant, of laying of Soldiers, upon whom? and how long?

His Lordship *Answered*, That he had heard something of it heretofore, but more particularly in *November* last, when being at the Council-Board, a Petition was preferred to the then Lord Deputy and Council, by one *Davis*, who dwelt in the County of *Clare*; and by his Petition he set forth, That notwithstanding on a Reference from my Lord Deputy to the Judges of Affizes, he had obtained a Report from him; yet by combination betwixt his Adversary and the Sergeant, he had Soldiers laid on him, which made him leave his Dwelling: That he the (said Lord *Ranalaugh*) asked the party, how the Sergeants came to lay Soldiers? Yes saith he, My Lord Deputy *Wansford* hath made a Warrant dormant, and taken a course for it from my Lord Lieutenant, and from himself, (as he the Lord *Ranalaugh* takes it) tho positively he could say, that the Warrant Dormant was the general Cause.

Being asked whether it had been used before, or if it be an Innovation?

He *Answered*, That he knew a custome hath been in *Ireland*, for laying Soldiers on the relievers of Rebels, and for laying of Contribution-money, in case of Delinquency, or not payment; Or where a return was made by the Sheriff, that the Kings Rents did not come in, these Rents being applyed to the payment of the Army. The course before my Lord of *Strafford's* coming was, That Soldiers were laid to constrain such, but in a civil cause between party and party, he never heard of it before in his life.

Being asked (on my Lord of *Strafford's* motion) whether (he the Lord *Ranalaugh* was not a Captain of the Army before the Lord of *Strafford* came, and whether he had not Commission by Soldiers, to levy part of the money due to him, from the Deputy and Vice-Treasurer?

He

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He *Answered*, That before my Lord-Deputy came into *Ireland*, the course was, as he formerly touched, that where there was arrear of Rents to the King, and these Rents did not come in to the *Exchequer*, then was assigned for the payment of the King's Soldiers, and the Acquittances delivered to the Captains, on part of their entertainment: and this Acquittance out of the *Exchequer* was given by a special Warrant from the Deputy, and according to that course, his (the Deputies method) was with other Captains, and thus he levied the Rent by his own Soldiers, by virtue of that Warrant.

Being asked when the Money was Assessed thus on Countreys; was it not by consent of the Countrey?

He *Answered*, (That if he hath not forgotten) when the Gentlemen of *Ireland* were here 1628. they were suitors to the King for several Graces, and they obtained several of them from His Majesty: among the rest (if he hath not forgotten) that in case of non-payment of Rents or Contribution, Soldiers might go, and lye upon the Defaulters,

Mr. Palmer,

Mr. *Palmer* observed, that when he speaks of Contribution or Rent, he speaks not of this course, to compell to obedience on Paper-Petitions. And so (he said) they would conclude with their Witnesses, reciting, that their Lordships have heard the course taken, to secure that Power, my Lord of *Strafford* assumed to himself, in hearing of Causes. That this Usurpation on ordinary Courts of Justice, to whom it belongs, could not be secured without Arms in a Warlike manner, to compell obedience. Their Lordships have heard how it was executed, that if the proceeding had been legal, the proofs of Law had been according to the calme and quiet Rules of Justice, but being an incroached Power, it must be executed by force, and Arms, and War indeed (for so it is in substance) on the Subjects of *Ireland*. That this was in time of Peace, the troubles of *Ireland* being long since appeased, and the People reduced to the condition of Subjects, governed by ordinary Laws and Magistrates: and now to put an extraordinary Power in execution, to compell the Subjects by Act of Hostility, they conceive is within the Statute of 25 Ed. 3. *A levying of War against our Sovereign Lord the King within His Realm.* which is nominally Treason in that Statute, and shortly for this reason.

The King being invested with His Sovereign Power, whereby they are protected, but this Power being (instead of Protection) used by his Ministers to the subversion and destruction of His Subjects, doth on the matter, make an Invocation on the King himself, this being a bereaving the subjects of the Law by which they should live; dispossessing them by force of Arms, in warlike manner, must be a war against himself, That Law is of force in *Ireland*, by 10 H. 7. whereby all the Laws made before that time, were made of force there.

And by a particular Statute made the 18 H. 6. this very offence of Selling Soldiers by Lords, or any others, or any the Kings people without their consent, is adjudged Treason, and the Offender is to be judged a Traitor.

The

The Statute was read.

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Statutes and Ordinances made in a Parliament, holden at Dublin 18 H. 6. ch. 3.

AN Act that no Lord or others, shall charge the Kings Subjects with Horse, Horsemen, or Footmen, without their good Will, and by so doing, the Offender is a Traitor.

IT is agreed and established, that no Lord, or any other, of what condition soever he be, shall bring or lead from henceforth Hoblers, Kern, or Hooded men, neither English Rebels, nor Irish Enemies, nor any other people, nor Horse to lye on Horseback, or Foot to lye on the Kings people, but on their own cost, without consent. And if any so do, he shall be adjudged as a Traitor.

Mr. Palmer concluded that this hath been done, and how their Lordships have heard that this hath been done by Soldiers that profess hostility, brought from Garrisons, (the places of War) in great numbers, and indeed the number left indefinitely to the discretion of the Sergeant at Arms, in Warlike furniture, which is literally true in the case: And so he concluded the Article, expecting my Lord of Strafford's Defence.

Mr. Palmer.

My Lord of Strafford desired their Lordships would be pleased, to give him liberty to look over his Notes, and he doubted not but to give their Lordships a very clear satisfaction, by the help of Almighty God.

E. of Strafford

After a little respite; his Lordship began his Defence in substance as followeth. And First,

Defence.

He desired their Lordships would please to remember, that if he proved not all things so clearly and fully, the reason was obvious and plain, the shortness of his time, the Witnesses being to be fetched out of *Ireland*, and he having none but such as come accidentally.

That the other day he read to their Lordships, out of Sir *Edward Cook's* Book, that the Customs of *Ireland* are in many things different from the Customs of *England*: That for the things done in *Ireland*, he conceived he was to be judged by the Laws and Customs of *Ireland*, and not by the Laws and Customs of this Kingdom; and that his Commission was to execute the place of Deputy, according to the Laws and Customs of that Kingdom.

That what hath been opened to their Lordships to be so extraordinary, he must justify as very ordinary, frequent, and usually exercised by the Customs of that Kingdom: That in all times the Army of *Ireland*, and the Officers and Soldiers of it, have been the chief hands in executing all the Justice of the Kingdom, and of bringing that due obedience to the Kings authority, that's necessary, and fit, and due.

That if they had not been so used, he thinks (those who know the State of *Ireland* will acknowledge) the King's Writs had never run in *Ireland*, they being all executed by their Power and Assistance.

First, his Lordship undertook to make it appear, that (in case of bringing in Rebels and Offenders of that nature, and forcing them to come in)

Article XV. in) it had been the ordinary practice of the Deputy and Council, before his time, to Assess Soldiers, not only on the party, but the kindred of the partys, till the party be brought in, and yet it is no levying of War for all that.

And because his Lordship heard much speaking of Rebels and Traitors, he desired to represent to their Lordships, what they be (*viz.*) a company of petit loose fellows that would be here apprehended by a Constable.

Lord Dillon.

Lord Robert Dillon was called for, and my Lord of Strafford desired he might be asked, whether it had not been the practice of the Deputy and Council, to Assess Soldiers, not only on the persons, but the Septs and whole kindred of Rebels?

Mr. Palmer.

Here Mr. Palmer interposed, that for saving of time, if my Lord makes this the Case, that Soldiers have been laid upon the Septs of Traitors or Rebels, that lye out in Woods, and esloigne themselves from the Kings protection, whom they call Kernes, Outlaws, and Rebels; they (the Committee) will admit the usage, though it will not justify the Case, being expressly against Law; for by a Stat. 22 Eliz. If any lye out as Traitors, or Rebels, five of the Sept that bears the Surname, shall be Fined at the Council-Chamber, but not have Soldiers laid on them; and against a Statute there can be no Usage.

E. of Strafford.

To which my Lord of Strafford answered, And these are but ordinary fellows: And he desired their Lordships would clearly understand what is meant by Rebels, for every petty fellow stealing Sheep, and the like, if the party be out in action, they commonly term such Rebels.

Robert Lord Dillon being asked, whether ordinary fellows in Ireland, passed not under the name of Rebels?

Lord Dillon.

His Lordship Answered, That touching this point he hath observed, that when a party hath committed some Felony, or unjustifiable Act, and withdraws himself into the Woods, a Proclamation is made, for his coming in by such a time, to render himself amenable to the Law; and if he then comes not in, but keeps out, in common reputation he is accounted a Traitor or Rebel.

Tyrringham.

Sir Arthur Tyrringham being asked, whether of his knowledge the Deputies and Council have not frequently Sessed Soldiers on Offenders and Rebels, when they could not be brought forth to Justice, and what is understood by a Rebel in Ireland.

He Answered, That it hath been the ordinary practice ever since he knew that Kingdom, since my Lord of Faulklands being Deputy there, and hath been ever practised there, both by him, and the Justices that came after him: That ordinary fellows be commonly reputed Rebels, with this observation. It is true, That every man is not a Rebel, at his first going out, though he be called so; but the course is first to proclaim them, and if they

they be not ameneable to Law, they be Rebels, and so they may be for Felonies of a very small value. Article XV.

To prove that most of the Kings Rents, as well *Exchequer* Rents, as Composition Rents, have been levied by Soldiers in all the times of my Lord of *Cork*.

My Lord of *Strafford* desired.

John Conley might be called for; who being examined, how long since he hath been in *Ireland*: and whether in his time the Rents were not collected by the Soldiers and Officers of the Army?

He *Answered* to the First, 15 years. To the Second, That he remembers it very well, that in my Lord *Faulklands* time, it was an ordinary course, where the Kings Rents were due, to send some Horse and Horsemen, and take up these Rents, and lye on them till they were collected and taken up. So in my Lord *Grandisons* time, and in all *Chichesters* time; and this is all he can say.

Conley,
Witness.

Henry Dillon was called, And First my Lord of *Strafford* desired liberty to defend the credit of his Witness, as to some exceptions taken to him the other day, and offered the occasion of the Order of Council-Board made against him, to be only this; That he said, he heard some such thing said, and thereupon was commanded to make an acknowledgement, and to this he was invited and perswaded by my Lord *Dillon*, for quietness sake, rather than he should be troubled about so small a matter, and that being granted, he supposed the Gentleman stood upright, and was a competent Witness in this or any other cause. To which some of the Committee for the Commons answered, That they except not against the hearing of him, but offer to their Lordships memory his acknowledgement, that he spake falsely, as a weakening of his memory. And then,

Henry Dillon.

Henry Dillon being asked, Whether he knew not that the *Exchequer* and *Composition* Rents, upon failing of payment, have been levied by the Army, on the appointment of the Deputy, or chief Governor?

He *Answered*, That he had known several Acquittances put into the hands of Sir *Thomas Dutton*, for Rents due on certain parcels of Land in the County of *Longford*, that were not paid into the *Exchequer* by a certain time, for which a-fore-time, Pursuivants issued out against the Tenants; that himself was one of the Tenants, and being out of Town, Sir *Thomas Dillon* seized three of his Horses, at his the said *Dillons* House, and there they remained till he came to Town for 13 s. 4 d.

This being in the time of my Lord of *Corke* and my Lord of *Ely* being Justices.

Being asked, as to the Contribution and Composition-Rents?

He *Answered*, That some years before that, in my Lord *Faulklands* time when he lived in the County of *Longford*, that were not paid, he remembers 30000 l. was granted on the coming of Sir *John B.* into the Kingdom of *Ireland*, and afterwards, Six-

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score thousand pound toward, maintaining of the Kings Army, and there was a Troop of Horse of Sir Robert _____ sent into the County of _____. But he knows not whether this be the Money called Contribution-Money; That he was then Sheriff of that County, and had direction sent to Sesse the Soldiers on them that refused to pay the Money. That at that time he conceived that was not so fully understood by the Countrey, that they should have paid it, and himself and others did except against it; conceiving the Money was not granted farther, than as they would willingly pay. And *Valerian* _____ on the Statute urged, of assessing Soldiers, refused to Assess Soldiers on the Warrant of my Lord of *Faulkland*; and thereon was sent for to the Castle, the Soldiers sent to his house and remained there, as long as he had Provision; and after that, from his house they were assessed on several Delinquents, as the Soldiers pleased to Billet themselves; and the Foot-Company of Sir *Arthur Tyringham* was then in that County. And one night he remembers, 25 were Assessed on his own house, because he did not pay the Money: but he remembers not any thing of the Composition-Rents.

Being asked whether he had not seen a Warrant to this purpose, subscribed by the Chief Governor?

He Answered, That being Sheriff of the County of *Longford* in 1634. or 1633. there were Warrants directed from my Lord of *Cork*, and my Lord *Chancellor*, and he thinks under the hands of the rest of the Lords of the Board, for levying Moneys allotted to the Soldiers, and he had three Warrants himself, and by virtue thereof levied Money, and paid the Money to the Troops there, under the hands of my Lord of *Cork*, and Lord of *Ely*, and the Council.

Tyringham.

Sir *Arthur Tyringham* being asked whether he had not received Order, with a Warrant, for attaching a person in case of Debt, and for laying Soldiers on him in case he paid it not, and who was the person?

He Answered, That he had; And the Sheriff of the County brought the Warrant from my Lord of *Faulkland*, to lay some of his Men on a Debtor there, till he paid the debt; ; That these Soldiers were laid, being under his command, and stayed till the Debt was paid, at the charge of the party; and he tells this particular in it, that makes him remember the whole circumstance: The debt was very small, not above 16 or 20 s. The Sheriff bringing him this Warrant, he did not a little wonder at the matter, to require Soldiers for levying such a sum. But it was then so ordinary and frequent, that it was seldom denied on any reasonable occasion: the Men stayed there some 8 or 10 days, when the party had enough, he sends to him the said *Arthur*, to recall the men; that he told him he would, if he the said party had satisfied the Money; the party answered, he had not yet, but he would; that he the said Sir *Arthur* told him, what a strange man are you, that will keep a charge on your

your self? where, if you had paid it the first hour, I would have withdrawn the Men.

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Why, sayes he? I do not care for giving half a score Men a Meales Meat.

Being Asked (on Mr. *Palmer's* motion) Whether it was a Debt between party and party, or the Kings Debt?

He *Answered*, He could not tell: But, the Sheriffs name was *Fleming*.

Being Asked, Under whose hand was the *Warrant*?

He *Answered*, Under my Lord of *Faulklands* Hand, otherwise he would have levied no Money.

Lord *Rainalagh* being Asked, Whether before my Lord of *Straffords* coming into *Ireland*, the Kings Debts and Rents, as well Exchequer as Composition-Money, were not raised by Assessing of Soldiers?

Rainalagh.

He *Answered*, That he remembers in the Lord Justices time, my Lord of *Corke*, and Lord of *Ely* (the Kings Rents being slowly paid in) they did usually give Acquittances out of the Exchequer, to the Captains and Officers of the several Companies; and, if they were not paid by some time limitted, and if the Sheriff, or the Collector, did not bring in the Money, the last resort was to fall on the Defaulters, by assessing Soldiers on them, and there to lie till the Money was paid.

Here my Lord of *Strafford*, conceiving he had spoken of Contribution and Composition-Rents, desired my Lord *Rainalagh* might Repeat what he said.

Thereupon his Lordship *Answered*, That he thought what he said he was sure of, and might justly say: That for the Exchequer-Rents, and Contribution Payments (for the Compositions he would say nothing) the course was this. That for the Exchequer-Rents, the Vice-Treasurer gave out his Acquittances, These were assigned to some Captains, whose turn it was for Payment, and they, accompanied with a *Warrant* from the Deputies, to constrain the payment by some few Soldiers.

Hereupon my Lord of *Strafford* Observed; That this Cause would seem strange in *England*.

Strafford.

And whereas my Lord *Rainalagh* spake of Contribution-Money, Mr. *Palmer* humbly desired, he might be Asked, Whether the raising of it by Soldiers, was not so agreed to in the Countrey? For my Lord of *Straffords* own Answer sayes, The Countrey choose rather, that on Delinquency it should be so levied than otherwise; And, if it be by consent, the force of the Statute is taken away.

Palmer.

My

Article XV.

My Lord *Rainalagh* being Asked accordingly ?

His Lordship *Answered*, That he had already spoken to that purpose, and he believed, some of the Committee that were there had the particular Instance to produce.

Being required to name them in whose hands it was ;

His Lordship said, In Mr. *Plunkets*, or Mr. *Brown*.

Being Asked , When this course began ?

He *Answered*, He did not remember the time ; but, he thought, in 1628. on certain of the Agents out of *England*.

E. of *Strafford*.

My Lord of *Strafford* did here offer , That if he might have Read the Antient Book in my Lord *Faulklands* time, he could have showed Sir *Tho. Wayneman* sent up and down, to this and that County, to fetch in the Composition-Rents, and that they have been thus levied.

His Lordship added , That the next Point he should have endeavoured to prove, was, That the Gentry that granted the Six score thousand pounds for Supply of the Army in my Lord *Faulklands* time, agreed, That the same should not be brought into the Kings Exchequer, but be levied by Soldiers : nor be mentioned in any Accompt of the Kings, least it should be mentioned to their prejudice : but, let the Gentlemen that manages the Evidence, labour to prove this.

And Mr. *Palmer* declared again, That they agreed to it.

E. of *Strafford*.

Whence my Lord of *Strafford* observed, That it concerned him both to make good the truth of his Answer, and to tell their Lordships, how narrowly he is moved to look to himself ; for, though they now agree it to be done by the Agents, and practised by them, yet the first part of this Killing Charge is, That he should Traiterously and Wickedly devise, to subdue the Subjects of that Realm, by levying Money on them.

Mr. *Palmer*.

But Mr. *Palmer* explained himself ; That they did admit the Contribution to be levied by the Agreement of the Agents, and by consent, but they intend not to admit, that it did extend to a practice by his Predecessors, for that it was formerly done, they did in no sort admit.

Mr. *Pym*.

And Mr. *Pym* added, That they do not Charge him with levying the Contribution Money, but with levying Money after the Contribution, was paid, which was more than the Contribution, but that is not in issue.

So my Lord of *Strafford* concluded that Point ; That the Contribution, for eight years before his coming, was levied by Soldiers, is admitted ; So that for all the things concerning that Contribution, he did no more than was agreeable to the Agents themselves.

His Lordship then desired, That the Second Article of my Lord of *Faulklands* Instructions might be Read, by which he was expressly appointed to lay Soldiers on such, as paid not their Rent to the King.

And it was Read.

ARTICLE II.

ARTICLE II.

FOr the Collection of our Rents, in Cases of Default; That First a Summoning Process shall Issue: Secondly, The Pursuant sent: And Lastly, if this be not sufficient (in case the same be not levied) then our Vice-Treasurer, by Warrant of our Deputy and Council, shall appoint a competent number of Soldiers of the next Ayding, and Garrison, to collect the Rents of the charge of the Parties complained of; having care, that no man be burdened with a greater number of Soldiers, than the Service shall necessarily require.

Mr. Palmer desiring, That the first Article of these Instructions might be Read, it was read accordingly.

Mr. Palmer.

AT the humble Request of our Subjects, We are graciously pleas'd to direct, for the better preservation and ease of our Subjects, the Soldiers shall be called in, &c.

My Lord of Strafford from his Proofes inferred, That he had made it clearly appear, That, notwithstanding the Statute cited, it had been the frequent use and custome of Ireland, to assess Soldiers on Septs of Offenders, for the levying of Exchequer-rents, levying Debts, as appears in one particular Case which is left in Dublin, for the levying of the Composition Rents by Troops of Horse and Horsemen; and for the Contribution, that State gives no difference, betwixt selling for the Kings Rents, and for contempts and disobedience to Justice, and certainly it would be High-Treason: for, if the Deputy had power to assess the Soldiers, without being guilty in the former Case, certainly his assessing of Soldiers on Contemners, to bring them to be amenable to the Kings Justice, cannot be by any construction made Treason in him: So that though it comes not to the particular *individuum*, yet it comes thus far, that selling of the Soldiers is a power that was in the Deputies of Ireland, and so he trusts was by the Law of that Land, without making them Traytors.

E. of Strafford.

His Lordship did further alleadg, That when he came into Ireland, he found that none of the Kings Rents were levied in other manner; Paper-Attachments being given unto the Captains, and they, on these assignments, levying the Money for their Entertainments: that he was willing to remedy this, being not much in love with the course; and, since his time, it was never practised, the Rents being brought in before it comes to that; though if they had not been paid sooner, it must have come to that: And therefore he desired he might show them a Proclamation, Issued within three months after he came into Ireland, to show, that he brought not the Custom with him, but found it there.

Which Proclamation was Read, being Dated 27th December, 1633.
And Imported.

THat whereas the Surplussage of his Majesties Revenue is appointed to be applied towards the Payment of the Army, thereby to give the Countrey more ease, &c.

To

Article XV.

To which *Proclamation* divers of the Counsellors Names were added, and were now Read.

So that if Selling of Soldiers, in any case, be Treason, certainly it is in this; *Posito*, That if the Law be good, it equally goes to both.

And so he conceives he hath shewed the use that hath been, and must be of the Officers of the Army, being the most ready way to procure obedience to the Kings Courts.

His Lordship observed, That the Gentlemen at the Barr waved part of his Charge, though there was a Book in Print, wherein he appears to be charged in a Trayterous manner, to subdue, &c.

He waves the *Article*.

And though they decline it, he besought their Lordships he might give an Account of this particular, least it should stick with their Lordships, when they read the *Article*, and find no Answer to it.

But the Committee opposed it, as conceiving it not fit he should Answer to an *Article* to which he was not pressed (specially since they have not wholly laid it aside) and that he had notice yesterday, that they intended not, for the present, to proceed upon it; which my Lord of *Strafford* confessed, and gave thanks to the House of Commons for it.

His Lordship then proceeded in his Defence, setting forth to their Lordships, That the first Instruction to my Lord of *Faulkland* is no limitation to him, it being not good, as to him, unless it were given him, which he mentions onely by the way.

For the *Warrants* charged to be by him Issued, and the Execution of them, His Lordship desires to free himself from the Testimony given by Mr. *Berne* and Mr. *Kennedy*, concerning a very foul misdemeanour committed by some Soldiers, under pretence of coming to see the Kings Writ executed, and his Justice complied withal, before he comes to that, that concerns Mr. *Savill*.

I. It appears, these Soldiers were laid when he was not in *Ireland*; so that he is not answerable to any thing Deposed by these Gentlemen, further than that he gave a *Warrant* for it to Mr. *Pigott*.

II. He denies that ever *Pigott* had any such *Warrant* from him, nor is any Proofs to that purpose offered: Therefore it is not to be laid to his Account.

III. Only *Patrick Clear* (says *Pigott*) threatned to lay Soldiers on some if they would not obey: but, because he threatned, therefore he had such a *Warrant*, is (under favour) no consequence; men commonly threaten most, when they have least to shew.

IV. Mr. *Kennedy* says directly, *Pigott* had done what he did by direction; but, in exprefs termes, he says, He never saw the *Warrant*.

Then there remained only Mr. *Savill's Warrant*.

This

This *Warrant* is not showed, nor comes it in Judgment against him: and though some Testimonies are given, that they have seen such a *Warrant*, for Assessing Soldiers, &c. yet he conceives it very hard, That the *Warrant* should be the ground of convincing him of Treason, and yet the *Warrant* not be shown, for what the grounds are, and what the Limitations may be do not appear: And, if there were such a *Warrant*, it is long since it passed from him; But, it is not shown; and therefore to convince him in *modo & forma* is very hard to be done; for what may be in it to qualifie, or what amiss, no body knows. But, to the Proofs, his Lordship observed, That the Proofs are very scant; This great Mighty War made on the King and his People, in breach of the Statute cited, is one of the Poorest Wars that ever was made in *Christendome*; for, last Summer, one sayes, he knew Soldiers laid on one man.

The Sergeant sayes, He never laid above 6, sometimes 2, sometimes 3; and that this should be heightened to the making of a War against the King and his People, seems to be a very great strain put upon it, and more he hopes than the matter will bear.

That it was never complained of to him, all the while he was in *Ireland*, in respect of any manner of prejudice sustained by it.

That if there be such a *Warrant*, he is glad it hath been so moderately Executed, that no worse consequence hath come of it, than their Lordships have heard.

But, he shall make it appear, that the Sergeant at Armes is a publick Officer; and, what *Warrant* soever he hath from him, it is not in relation to him, but to the execution and procuring obedience to all other the Kings Courts of Justice, as well as those of the Deputies Jurisdiction; and, it was onely to enable him the better to secure the Kings Right: And he desired, that *Nicolas Ardab* be examined, Whether he be not an Officer of the Exchequer in *Ireland*, and whether he knows of any particular Seising of Soldiers by the Sergeant at Armes, before my Lord of *Straffords* Government? And being Askt severally these Questions;

He Answered, To the first; That he hath some Employment in the Exchequer, and was imployed in a Commission of Church-bounds.

Ardab
Witness.

And, that about the Second Year of His Majesties Reign, there was one *Tho. Fitzgerald* High Sheriff of a County, that had not perfected his Accompts, and not appeared to the Pursivant; The Lord Chancellor that now is, desired the rest to assist him to move my Lord of *Faulkland* to lay Horse on him; And that the Party was brought in within a short time after; but, whether by Soldiers, he knows not; but he heard there was a *Warrant*.

Mr. *Savill* being Asked, Whether the *Warrant* to him granted was not agreeable to former Precedents?

He Answered, That he never saw any other *Warrant* of the same Nature: but, he hath heard by him that was his Predecessor (now a Captain of the Army) that he had received a *Warrant* from my Lord of *Faulkland*, to Seis Soldiers on the Land of *Tho. Fitzgerald*, who had refused to come to pass Accompts.

Savill,
Witness.

G g g.

Mr. Henry

Article XV.

Dillon.
Witness.

Mr. Henry Dillon being Asked, Whether he knew of any such *Warrant* formerly granted? And what Relation the Sergeant at Armes hath to other Courts?

He Answered, That he conceives, the Sergeant at Armes is an Officer, as well to the Court of *Exchequer*, as to the *Chancery*, on the last Process of Contempt. The last Process is a *Writ* to the Sergeant, to Attach a Man, whether betwixt party and party, or concerning the King; and that he had spoken with *Thimbleby*, Sergeant at Armes, whether he did so in his own right, or as Deputy? And Asking him, What he would do if the *Warrant* was disobey'd? and he pretended he would Assess Soldiers; and being a Scholar at ——— 23 years, he heard one had Soldiers fessed on him for disobedience to the Sergeant at Armes; but, what the particular was he doth not know.

E. of Strafford.

Here Mr. Palmer speaking some words, which my Lord of *Strafford* interpreted an Interruption; his Lordship desired, That no hasty words might be misinterpreted, he being for his Life and Children; and added, The Gentlemen will do well not to put him out of his way, but let him speak the poor few things he can for himself, and then leave them to their Lordships wisdom. And then proceeded.

So he supposed there could be no such severe construction put upon this *Warrant*, that it should be adjudged a levying of War against the King and his People, when it appears to be the using of half a dozen, sometimes two or three Soldiers to lye on refractory persons, and bring them to be conformable to Justice; that the Kings Law might be obeyed, without any Treasonable or corrupt intention whatsoever: And, he hopes their Lordships will have a more favourable and compassionate consideration, than to Judge him a Traytor for such a piece of business, accompanied with all these circumstances.

But he added, That some wayes he is more qualified then an ordinary person, by reason he had the honor to be His Majesties Deputy; and, by His Commission, had power to pursue Rebels, and to use the Kings Army for punishing of Rebels, or securing the Publick Peace of the Realm, as in his discretion he should think fit; and, that he conceives, a *Warrant*, though there had been no President in the Case (but with these accompany'd) cannot be laid on him as a Crime. For this, he refers himself to his Commission, which had been formerly read, and therefore trusts this will not fall into their Lordships Judgment as a High Treason, he being to govern according to the Customes of the Realm: There is a Statute 10 H. 7. cap. 17. whereby it was Ordained, Enacted, and Established by Authority of that Parliament, That from that time forwards there be no Peace nor War undertaken in the Land, without the Deputies Licence; but, all such War and Peace to be made by the Lieutenants, for the time being; And this comes in time, after the Statute of 18 H. 6. This was never complayn'd of as a fault, and no ill consequence followed on it. If a Man shall enter by force, and wrongfully keep away possession, that may be as well said to be a levying of War as this; and yet a forcible Entry is familiarly punish'd in the *Star-Chamber*, but not spoken of as a Treason.

As

As to the Statute in Ireland, of 18 H. 6. cap. 3. *An Act, That no Lord, or other, shall Charge the Kings Subject, &c.*

HE Conceives, he cannot be brought within compass of this Statute: For,

I. He hath heard it said, That the King cannot be concluded in any Statute, unless he be particularly named, and consequently not his Chief Governor: For, these words, *No Lord, or any other, of what condition soever, &c.* Must imply, a condition of a Lord, or one under a Lord, not a condition above a Lord, as the Chief Governor is.

II. He shall not lead, or bring. He hath neither brought, nor lead them into Action; for the Sergeant at Armes hath done it, though under his Warrant.

III. It speaks of bringing English Rebels, or Irish Enemies, or Hooded Men, Hoblers, Kernes, &c. But, that sending of the Kings Soldiers to apprehend and attach such Refractory Persons should be within the Statute, is a Stretching of the words of it very far.

IV. Notwithstanding this Law, the Chief Governor hath alwayes used to assess Soldiers (and Practice is the best Interpreter of Lawes) and yet his acts have not, by this Statute, been concluded Treason; since they have Compounded for it, and they pay a great Rent; The Composition Rents paid for their discharge from the assessing of the Army, being one of the greatest Revenues before his coming there.

And, if their Lordships will have it proved, there be few of the Irish but know it; And, in *Ccnaught* the King may take, or leave as he pleases.

Though he shall not insist on it (as desiring never to depart from their Lordships Judgment, nor thinking himself more safe in any other; therefore freely and voluntarily he puts himself under their Lordships Censure, for his Life, as for his Death: But, if he should insist on it, admitting all this, That it was a Treason by the Statute-Law of *Ireland*, yet he is not Tryable for it here: But, he makes no use of it to that purpose; but, had he a Thousand lives, he would humbly lay them every one at their Lordships feet.

He added, That it is a very heavy Case, that such old Laws as these should be started, in this manner, when the Practice hath been quite contrary; and Kindled, to destroy him and his Posterity at a Blow. But, he trusts, God Almighty hath provided better for him, by their Lordships Favour and Justice: For, though the Gentlemen at the Bar are much more Learned than himself; yet, it may be, they are not so well Read in the Irish-Statutes, as they be in the English: Besides, he is most confident, he shall make it appear that Statute is Repealed.

And, if it falls in his Judgment, their Lordships (he hopes) will find, he had Reason to think, what he shall offer, might be available; and, that their Lordships will not be offended if he mistakes the Law; and this, as in other things, he desires the Advantage of by Counsel, concerning these Points of Law, before he be finally concluded.

Article XV.

First, By the Statute of 8 Ed. 4. ca. 1. (and, had these Gentlemen seen these Statutes, he believes they would never put it in Charge against him.) Whereby it is Enacted, Confirmed, and Ratified, by Authority of the said Parliament, that the said Statute be Adjudged and Approved in force and strength; and the said Statute may be of force in this Land from the 6th day of March next; and that from henceforth the said Act, and all Statutes and Acts, made by Authority of Parliament, within the Kingdom of England, be Adjudged and Ratified from the said 6th day of March.

This comes in time, after the Statute of Treason of H. 6. and, Ratifying all the former Statutes of England, Ratifies the 25th of E. 3. in England, which is the Statute of Treason: and, 1 H. 4. which sayes, nothing shall be Treason, but what is said to be Treason within the said Statute of 25 E. 3.

So that nothing can be Treason in Ireland, but what is Treason by 25 E. 3. or 1 H. 4. or something subsequent, for these being confirmed later, do take away the Statute of 18 H. 6.

Secondly, By the Statute of 10 H. 7. c. 22. and this is a Repeal in Judgements, far better then his own. The former was for another purpose. By this, all the Statutes made in England before that time, are brought to be Laws within Ireland; and, all Laws contrary to these Laws are hereby repealed. But, the Law urged by those Gentlemen is against the Laws of 25 Ed. 3. and 1 H. 4. and consequently is repealed very clearly; and, the words are these in effect; It tells of the Benefit and Advantage that might come to them, after the English Laws should be brought in; And, if any Statute have been made contrary to them, the same to be annulled, void, and of none effect.

And, that it hath been so taken and conceived, that that Law is Repealed, he hath, as he conceives, a Judgment in Parliament clearly on his side, to clear him, as to this Treason, That the Deputy hath power to Assess Soldiers, in Cases where he shall think convenient.

It is a Power, which (God forbid) any Many should exercise, but with all fair Intention, and Mildness that possibly can be; and he speaks it, not to draw any inconvenience on that Kingdom (he being willing to spend his Life for them, rather than do them any hurt) nor will he carry from this Bar the Remembrance of any thing of their Unkindness, in Prosecution (he means not them that are Members of this House:) *præter gratuitas Cicatrices*, and will never look the worse on them he Vowes to God.

The Statute is 11 Eliz. ca. 7. Being an Act for taking away Captainship, and all Exactions belonging thereunto from the Lords and Great Men.

WHereas, Most Gracious Sovereign Lady, The Lords and Chieftaines of this Realm, in the time of desolation of Justice, have arrogated to themselves Absolute and Regal Authority, &c. For Remedy whereof, your Faithful Subjects most humbly beseech it may be Enacted, &c. That no Earl, Viscount, Baron, Lord, &c. dwelling within this Realm, shall assume, &c. the Name of Captain of any Countrey, except such as hath, or shall have the same by Letters-Patents from Your Majesty, &c. or by the name of Captain, or otherwise

therwise exact for the finding of him, or them, their Horse, Foot of or upon any of your Majesties Subjects, Tax, Sess, Subsidie, &c., nor shall call together the people of the same Countrey to Treat, Conclude, and Agree for making War or Peace, &c. Sess, nor lead the people, &c. without the Great Seal, or Warrant from the Lord Deputy, &c. upon pain to every Earl, Viscount, Baron, or Lord, &c. for every time 100 L. of lawful Money of Ireland.

Article XV.

Whence he inferred, that here is a Commission, that the Deputy and chief Governors have power to Assess, and yet are no Traitors; a penalty which they would have spared, had they thought that Law to have been in force.

So that as he hath been free in his heart from any Treasonable designe towards His Majesty or His People, and as he hath been innocent to God Almighty within doors, so from this Statute he shall stand clear abroad, and this cannot be brought as to this Case, to convince him of Treason.

And his Lordship did recall one thing in the Lord *Dillons* testimony, (which he had formerly omitted) That the Assessing of Soldiers was on men being in Rebellion for any unjustifiable Act.

And so his Lordship conceived, there remains no more for him to do at this time, but to answer that objection.

That this proceeding of his, was Treason, by 25 *Edw. 3.* though he had thought Treason had been like Felony in this respect; That there must be a felonious intent to make Felony, and so to make Treason, there must be a Treasonable intent. And he said (God knows) he had no Treasonable intent in all this, for if he had a mind to have raised War against the King and his People, surely he should never have done it by laying two or three Soldiers on a private man, and then taking them off again; And is this that levying of War against the King and his People, that is meant in the *Irish Statute* of 25 *Edw. 3.*?

The words of which Statute his Lordship read, *viz.*

If any man levy War against the King in His Realm, or adhere to His enemies, &c.

He appeals to their Lordships, desiring them to lay it to themselves, and tell him whether 2 or 3 poor Soldiers sent in this manner to bring in a man, that will not be lyable to the Kings Justice, could by any construction, be brought to be a War levied against the King and his People? which, said he, if it be an error, he knew it was no Treason, for he had thought it had been for the Honor and Authority, and Justice of the King, and not done as an enemy to him.

And therefore all laid together, though he must needs say, Men are dark towards themselves, and towards their own Cases, and less able to judge, than in the Case of other men; in truth, under favour, withall Humility, and submission to their Lordships better judgements, he cannot believe nor fear, but for any thing proved this day against him, as he is clear in his heart from all Treasons, and treasonable Intentions towards the King and His People; so he stands clear from Treason upon this Charge, not only in respect of the *Irish Statute*, but likewise the *English Statute*; and he shall beseech their Lordships, when it comes to its time, they will give his Council leave to urge these things for him, who he is sure will be able to do it with far greater reason and strength than himself, it being out of his profession.

Here

Article XV.

Here his Lordship took notice, that there was another part of the Charge which he desired to speak to: but Mr. *Palmer* said, That was subsequent, and not yet come to.

To which his Lordship *Answered*, That he should do all things without offence, only so long as he doth mannerly move any thing for his clearing, he hopes he may do it.

And so the Defence was concluded.

And then Mr. *Palmer* replied in Substance as followeth.

Mr. *Palmer*.

That their Lordships have heard a very long Defence, made by my Lord of *Strafford*, and that he would not apply himself to enforce any thing by circumstances, but to represent the truth, and to avoid those things offered by way of Answer, for most part of that may be confessed, and yet avoided.

Reply.

Whereas my Lord of *Strafford* hath made the greatest part of his Defence in matter of Fact from Usage, their Lordships may please to consider, that there can be no legal Usage contrary to an Act of Parliament, made before time of memory, as 25 E. 3. in *England*, and 18 H. 6. in *Ireland*, much less can there be Usage for committing of Treason.

The Usage insisted on, is First, for Soldiers being Asselt on Septs, till Rebels and Traitors not apprehendible, were brought in; and by Rebels, his Lordship would have understood, not Rebels against the King and State, but petit Offenders and Felons, and for that did examine Witnesses: But the Witnessse says, That when such had committed Felony, and withdrawn themselves into Woods, a Proclamation went out to call them in, and if then they came not in, they were esteemed Rebels, and Soldiers were laid on their Septs, which is not to lay Soldiers on Subjects in time of Peace, when they will not conform to his private Orders.

The Stat. 11 *Eliz.* describes what the laying Soldiers on the Sept was, viz. When Outlaws and Rebels lye in the Woods, and will not be apprehended with the ordinary Arm of Justice, then five of the best of the Sept shall be Fined, but not, that Soldiers shall be laid on them. And this being a Statute and lately made, must needs give the Rise to this laying of Soldiers on the Septs by the Council-Board, instead of a Fine; so this is no justification or excuse, it not bringing a full Answer home to the present Case; nor is this of right to be justified.

The next Usage was concerning the Kings Rents, which Mr. *Conley* only extends beyond the time of my Lord of *Faulkland*, he speaks of it in the time of my Lord *Grandison* and *Chichester*, yet it was no positive Testimony, and he was an old man, and his Evidence uncertain for those times. Besides, there was no account given of the certain reason, whether by a legal Process or no: For there might be due Process awarded, and a Writ of Assistance, to carry the power of the Countrey, and so the thing be done by legal authority; and therefore since it cannot be applied to any rule, it must be intended to be an illegal power, if at all.

The rest were all for Rents in the time of my Lord of *Faulkland*. The instructions were produced by my Lord of *Strafford* himself in time 1628. which was before my Lord of *Faulkland* went out of that Government.

And

And by these instructions there is an Agreement, and it is taken to be for the benefit of the people, that the Kings Rents should be levied by Soldiers; so that for all the time of my Lord of *Faulkland*, and the Justices since, it was within the compass of the Instructions, and reduced to the consent of the people, and the words of the *Statute* are, *No Soldiers shall be Assesst without consent*, but this remains charged to be by force, and against consent.

That concerning the Contribution-money, in which another Usage is alledged, is set forth to be an agreement of the people, That because it might not come into the *Exchequer*, to be made a Precedent, it should not be levied by ordinary Process, but by Soldiers, if it were behind, it being assigned for relief and pay of Soldiers, and being by consent is out of the present case.

Sir *Arthur Tyrningham* speaks of this Use in case of a petit debt of 16 or 20 s. on a Warrant from my Lord *Faulkland*, which is the only Case of Debt proved, but he could not tell whose or what debt it was, nor how determined or judged. If it were the Kings debt, it might be one of the Rents, or some duty leviable by consent of the people; neither did he say, it was on a suit before the Deputy, and therefore that will not come to the Case.

For that my Lord *Dillon* was called again touching Contribution, Composition, and Rents; Composition-Rents fall under the same Consideration.

That Sir *Thomas Wayncman* laid soldiers is but an affirmation, and expects no answer, (but if the Information be true) he used very violent courses, for it hath appeared he hanged a man, without any occasion.

My Lord produced the Instructions of 1628. and out of them inforced, that it might be lawful for him to levy Soldiers with authority; but it appears by the first Article it was consented to at the writing, and for the Benefit of the Subject, as was before answered; and that very much money was assigned for the Soldiers, and it may be proved (if there be occasion) That there issued Acquittances to the Captains of the Company, to deliver to the persons from whom the Money was due, in case of payment; and if they did not pay by consent, Soldiers were laid, and not otherwise.

For the Proclamation of *December 1633*. whereby the payment of His Majesties Rents and Revenues was ordered, it recites divers Rents were behind, that the surpluseage would not pay the Soldiers, that by want of Money, the Soldiers might make irruptions on the County; That according to direction, to prevent inconveniencies, Moneys should be levied, which had Rise from the Instructions, 1628. For the time of it was 1633. A Proclamation might well second that which was settled before, by the Instructions: If it did not pursue them, surely the Proclamation was an offence in it self, and then there is no justification of a Treason by a Treason, but it might have been as well objected against, as this in hand; But it is true, it hath the countenance of these Instructions.

But on all these, there is no pretence of forcing submission to my Lord of *Strafford's* Orders.

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Sir *Arthur Tyrningham*.

After

Article XV.

After Usage his Lordship observes the Testimonies produced, and takes exceptions to that of *Berne*; that the ground of his complaint was, when my Lord of *Strafford* was in *England*; That it was done by *Pygott's* Warrants, who was not proved to have any Warrant from him. It is true, there is no full and precise proof, that *Pygott* had his Warrant from my Lord of *Strafford*. But though it was done after his coming for *England*, yet if his Warrant were made before, though it were executed in his absence, it will lay it on my Lord of *Strafford*. But we say the Warrant was made before, and to *Pygott* as well as *Savill*. One Witness says, *Pygott* himself did vouch my Lord of *Strafford* to have given him his Warrant, it was my Lord Lieutenants Warrant, he was my Lord Lieutenants Sergeant, the Soldiers were my Lord Lieutenants Troopers; the Soldiers laid by *Savill*, are by my Lord Deputies Warrant, proved to be under his Hand and Seal, and many Witnesses are in *Savill's* Case produced. And whereas my Lord says, no Warrant was shewed; if himself had not excepted against it, a true Copy had been produced, and if none be shewed, it is his own fault; but my Lord of *Strafford* should have shewed it, if any thing was in it to qualify the matter, for it is proved he gave authority, and by his authority the Soldiers were laid.

Whereas my Lord says, this cause was not complained of, *Berne* gives the reason, he durst not complain there, but came over hither to complain, and hath prosecuted the complaint.

My Lord of *Strafford* was pleased to aske *Ardab*, what he heard concerning laying of Soldiers?

It is true, he and *Savill* mention the laying on Soldiers on *Fitzgerald* but it was for the Kings Money, and they spake it not on their own knowledge, but by hear-say, and it was done but once, and whether since the Instructions, it doth not appear, and if it was since, then it was by consent, and this *Fitzgerald* lay out as a Rebel, and if it was done, it was done under that capacity. To that point a Witness was produced.

Mr. *Kennedy* being Interrogated, Whether he the said *Fitzgerald* did did not lye in the nature of a Rebel when Soldiers were laid on him?

He Answered, That this *Fitzgerald* was Sheriff in the County of *Corke*, and failing in his Accompt at the time, Process was issued on his Recognizance, and he held out three or four years. That he, (the Deponent being then the Kings Remembrancer) thought it his duty to acquaint the Barons of the *Exchequer*, that he could not be found, but kept abroad in the Woods, being a man of good Estate; and then on acquainting my Lord of *Faulkland* with it, a Warrant was procured to the Sergeant at Arms.

Henry Dillon says nothing of the Usage, but pretends one *Thimbleby* said he had a Warrant, but whether he had a Warrant, or did execute it, appears not.

And if it be so, it appears not for what time, when it was, nor out of what Court the Process came, upon which the last Assesment was made.

This

This is all offered in matter of Fact; my Lord proceeds to other justifications. First, That His Majesties Deputy is so qualified, that he hath power to resist Rebels and secure Peace: and it is true, he hath power, but he hath no power at all to make a War, especially in time of Peace: now all things are appeased there, and no occasion is given of a War; only that Soldiers be maintained for a Nursery of Martial Discipline, but there is no occasion of Soldiers to be laid on the Kings people.

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He alledged a Stat. 10 H. 7. that no War or Peace should be made, but by the Deputies Licence; and therefore he infers, that by the Deputy War might be made; It is true, where there is hostility or Rebellion, then to oppose and repress that Rebellion, the Deputy may make a defensive War; but to do it in time of Peace, on the Kings people, that are under the Government of His Majesties Laws, is to make War on the Kings Subjects, under His Peace and Protection, and consequently, on the Sovereign Power that doth protect them.

He would compare it with forcible Entry, but the circumstances do very much diversify it from Riots, or forcible Entries; It is done by Soldiers that come furnished with all warlike Ammunition, brought from Garrisons, the places of War, brought with an Officer, brought in numbers; and though the Lord of *Strafford* extenuates the numbers, yet the Sergeant at Arms was unlimited. So the power given to him, was a vast power, to take such a number of Soldiers as he should think fit.

His Lordship observes, that the Stat. of 18. H. 6. cannot conclude him, because Statutes here in *England* do not include the King, unless he be nominated in them, the Committee expected not to hear this reason; That because the Kings Sacred Person is not mentioned in a Statute, who cannot be within the blemish of such an offence, therefore it should not extend to a Subject. This is to take a power above Law, and make himself equal to Sovereignty, to say that he should not be comprehended more than the King himself.

He says he did not lead the Soldiers, but only gave a Warrant, and therefore this should not be Treason; but though he leads them not, the Commander is an Actor; and to give Warrant for Treason, is Treason.

He says this is a Statute-Law in *Ireland*, and not examinable before their Lordships here. Mr. Palmer alledged, that he would do my Lord right; that he submitted to their Lordships Judgements, and craved leave to give answer to that point, and said, The Laws of *Ireland* are devised from the Crown of *England*, the King being seized of it in the right of his Crown of *England*, and as a parcel of this Crown: The power they have to make Laws there, is derivative from the Crown of *England*, and they did thankfully accept them from the first Conqueror: Since that, they had power to make Acts of Parliament, but that is subordinate, the Laws there are the Laws of *England* applyed to that place: As any particular custom of a place, not the general Law of the Land, is the Law of that place by a general custom, and yet may be judged out of the precincts of that custom; so the Laws of *Ireland* are the Laws of that Kingdom; yet may be judged by this Supream Court, out of the limits of *Ireland*. Though in an inferior Court, when a thing questioned in *Ireland*, is brought

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by

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by Writ of Error, they judge according to the Laws of *Ireland*, not of *England*.

And my Lord hath prayed, and we require, that he may be judged according to the Laws of *Ireland*. So this Law of 18 H. 6. may be judged by their Lordships, though it be a Law in *Ireland*. But my Lord urges, that this Law is repealed, and for that he gave reasons on many Acts of Parliament; First, a *Statute* made 8 Edw. 4. That is made to a particular purpose, reciting one particular *Statute*, and repealing that, and then by a general clause, ratifying and introducing all the *Statutes* of *England* into *Ireland*. This being but on a particular occasion, with such a general Clause, will not be applyable, however, it will be the Answer to that that follows. It is a general Clause to introduce the Laws of *England*, and shall not have that reflexion to repeal any Law of force in *Ireland*. This introducing of our Laws thither, shall not work to repeal their Laws, but make a consistence of both Laws, so far as they may stand together. On that Mr. Palmer said, he would not enlarge himself, it being not matter of Fact, and it was not expected that matter of Law would have been insisted on, and therefore he leaves it to those that shall hereafter give their Lordships satisfaction in point of Law.

That which my Lord called a Judgement in Parliament, 11 Eliz. recites that it was in time of desolation of Justice; That the Captains had brought oppressions on the people. It was in a time, when, though the *Irish* had been *vici* long before, yet they were not brought perfectly under subjection of the Laws of *England*, there then remained Rebellions and Tumults; It was in time of Hostility and War, And that *Statute* gives but an Implication neither, that Captains should not Assess without the Deputies Warrant: And it follows not, that therefore he hath authority to do it. But howsoever the thing be, this was for defence of the people, to make resistance against Rebels. But the thing in charge was in time of peace, and full government of the Law, and so that *Statute* will give no justification at all.

My Lord of *Strafford* concluded, that there was no Treasonable Intent in this, and therefore it should be no Treason on the *Statute* of the 25 Edw. 3.

My Lord recited the words of the *Statute*, Not to be only the levying of the War, but adhering to the Kings enemies; but these glosses are not to be confounded but severed. The adhering to the Kings enemies, is one offence within that *Statute*, Levying of War another; so that if there be no Adherence, yet if there be Levying of War, it will be Treason.

And this levying of War, it was on the Kings People; perhaps there was no intent upon the Kings Sacred Person; yet if it be against the Kings People, such a levying of War is Treason; ordinary Cases of Felony are to be against the Kings Crown and Dignity, though it be the Homicide of a mean Subject, it is against the Kings Crown and Dignity, because it is against the protection and safety of that man that is the Kings Subject; and so the levying of War on the Kings People, by laying Soldiers in this hostile manner, being against the protection, by which they are governed, against the safety, by which the

the King is to defend them. It is a War against the King, his Crown, and Dignity,

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This is the Answer to the Defence. And Mr. Palmer concluded, That he conceived the Charge of the House of Commons, in matter of Fact, was fully maintained, and for matter of Law, if there remained any scruple, a farther Argument, and stronger Reasons should be offered hereafter.

And so a Recess being granted for a day, upon the Humble Request of my Lord of Strafford, the House was Adjourned, and Saturday following was appointed for the next meeting.

Charge

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THE

T H E

Sixteenth Article.

The Charge.

Article XVI

Charge.

16. **T**hat the Earl of Strafford the Two and twentieth of February, in the 7th year of His Majesties Reign, intending to oppress the said Subjects of Ireland, did make a proposition, and obtained from His Majesty an allowance thereof, that no complaint of injustice or oppression done in Ireland, should be received in England against any, unless it appeared, that the party made first his address to him the said Earl, and the said Earl having by such usurped, Tyrannical, and exorbitant power, expressed in the former Articles, destroyed, and oppressed the Peers, and other Subjects of that Kingdom of Ireland, in their Lives, Consciences, Land, Liberties, and Estates; the said Earl to the intent, the better to maintain and strengthen his said power, and to bring the people into a disaffection of His Majesty, as aforesaid; did use His Majesties Name in the execution of the said power.

And to prevent the Subjects of that Realm of all means of complaints to His Majesty, and of redress against him and his Agents, did issue a Proclamation, bearing date the 17th day of September, in the Eleventh year of His Majesties Reign, thereby commanding all the Nobility, Undertakers, and others, who held Estates and Offices in the said Kingdom, (except such as were employed in His Majesties service, or attending in England by His special command) to make their personal Residence in the said Kingdom of Ireland; and not to depart thence, without Licence of himself.

And the said Earl hath since issued other Proclamations to the same purpose, by means whereof the Subjects of the said Realm are restrained from seeking relief against the oppressions of the said Earl, without his Licence; which Proclamation, the said Earl hath by several rigorous ways, as by Fine, Imprisonment, and otherwise, put in execution on His Majesties Subjects, as namely, one Parry, and others, who came over onely to complain of the exorbitances and oppressions of the said Earl.

April

April 3. 1641.

Mr. Palmer Proceeded in further Maintenance of the Charge of High-Treason, by the Commons of England, against the Earl of Strafford; and said, They were now entring upon the Sixteenth Article of his IMPEACHMENT, and shewed;

That from the Former *Articles* had been represented several and divers sorts of Crimes; and how that in every of them their Lordships might perceive a Power assumed by my Lord of *Strafford*, above, and contrary to the Laws, and destructive to them in every part, so far as concerned the Subject Matter; and, how these Multiplications of Acts did presuppose an Habit, and evidently proved that main Charge, wherewith he was Accused, viz. *His endeavouring the Subversion of the Established Laws and Government, and to introduce an Arbitrary and Tyrannical Power.*

And, that by this *Article* it would appear unto their Lordships, that those Exorbitances that were done in *Ireland*, were premeditated and intended, before his going thither; That those Oppressions were so by him done; and, that he might Countenance it, the *Article* Charges him, that on the 22th of *February*, in the 7th year of the King, he procured from his Majesties own allowance, that no Complaint of Injustice, or Oppression should be received in *England*, unless the Party made first his Address himself to the Deputy, and this was obtained on his repairing to that Government: And this was to be observed by the Secretaries here, the Masters of Request, and all others by whom Complaints might have passage to His Majesty; and, it remained as a Caution, that none should be admitted.

It is true, many specious Reasons and Arguments were subscribed to this Proposition, but the effect of them was, to take the Reines of Rule into his own hands, to prevent the immediate access and approach of the Subjects to His Majesty, in their seeking of redress for their Grievances.

And, in the 11th year of the King, after some time spent there, to prevent them of all meanes of Redress, their Complaints being before Imbarqued, that they could not be received, no person at all must come over without License; There must not be a Rumour of what was done in *Ireland*, but such as he should so Authorize. To that end, by colour of some Laws in *Ireland*, concerning them that were to maintain their Lands against the *Irish* in times of Hostility and Rebellion; and, under colour of some Instruction, for their keeping their Residence on their Lands, as also of a Letter to that purpose from His Majesty, he is Charged; that on the 17th of *Sept.* 11 *Car.* he issued a Proclamation, and that Commands the Nobility, Undertakers, and others that held Estates in *Ireland*, to reside there, and not to depart without his Licence, and so restrained them

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them from seeking Relief against his Oppressions, without his Licence. To them that desired Licences, he deny'd them: On them that adventur'd to repair hither without Licence, he imposed Fines and Imprisonments for transgressing that Proclamation; and, howsoever this may be Coloured with Pretences of Instructions, and Letters from His Majesty, it is an Usurpation on Regality, and an undermining of the Protection of His Majesty over His People.

For Proof thereof,

John Loftus
Witness.

John Loftus being Sworn, Attested; That the Copy of the Propositions, made by my Lord of Strafford, was taken out of the Clerk of the Councils Office, and was a true Copy.

The said Propositions were Read.

At Whitehall, 22th of Feb. 1631.

Propositions to be considered of by His Majesty, concerning the Government of Ireland.

These Propositions were entered according to His Majesties pleasure, signified by Mr. Secretary Cooke.

These Propositions made to His Majesty by the Lord Wentworth Lord Deputy of Ireland, and Lord President of the North, were Read and Approved of at the Council Board, 17th Feb. 1631.

There being Present, &c.

That no particular Complaint of Justice, or Oppression, be admitted here against any, unless it appear, the Party made first his Address to the Deputy, This is but Justice to the Deputy, who must needs, in some measure, be a Delinquent.

Whence Mr. Palmer Inferred, It did appear that this was to be Entered, and remain with the Secretaries, Masters of Requests, and all others whom it might concern.

The next thing is the Proclamation, in effect as followeth;

17th of Sept. 11 Car, By the Lord Deputy and Council. A Proclamation, That Noblemen, Undertakers, and others, shall be Resident here.

After the Preamble it Imports,

WE therefore, in Obedience to His Majesties Royal Command signified by the said Letter, Do Publish, Declare, and make known His Princely Pleasure, That all the Nobility, Undertakers, and others that hold Estates and Offices in the Kingdom (such only excepted, as are employed in His Service in England) do hereafter make their Personal Residences here; And not depart to England

land, or other place, without Licence of us the Lord Deputy, any former Letter to the contrary notwithstanding: And, in case we the Lord Deputy shall have notice of their Contempt of His Majesties Will, We shall proceed against them in an Exemplary way to deter others: Therefore we straightly Command all manner of persons to take notice of this Proclamation.

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Mr. Palmer observed, That by the Propositions, all Complaints are prevented; by the Proclamation all persons are restrained from coming over without the Lord Deputies Licence. And, that in pursuance hereof, several persons that have required Licences have been refused; That many of their occasions to come over, were Complaints against the Deputy himself; That such use hath been made of this Act, that the Committee of the House of Parliament there were restrained from coming over, on pretence of this Prohibition.

Witnesses were produced. And first,

Richard Wade being Sworn, was Interrogated, Whether my Lord of Esmond did not require Licence to come into England, and if it was deny'd him? And, Whether he had not a Suit depending with my Lord of Strafford, and he would not let him come over till Publication pass'd, whereby he was prevented of examining his Witnesses?

Wade Witness.

He Answered, That in August, 1638, my Lord of Esmond sent him with a Petition to my Lord Deputy, for Licence to go to make an end of the Cause, wherein my Lord Lieutenant was Plaintiff; That he delivered the Petition to my Lord Lieutenant himself, and waited on him every day for his Answer; that he could not get Licence on that Petition. That, after this, in Michaelmas-Term, 1638, as he takes it, my Lord of Esmond procured the Kings Letter; This Letter he delivered to my Lord Deputy, by direction of my Lord of Esmond; but, in this, could not get Licence: So that he was detained from Aug. 1638, till April following, and he thinks till Publication was granted.

Lorky being Sworn, and Interrogated touching my Lord of Esmonds restraint, till the passing of Publication,

Lorky Witness.

He Answered, That when my Lord of Esmond heard, that my Lord of Strafford had Incerted him into a Bill, amongst other Defendants in the Star-Chamber, my Lord desired leave to come to England, to make his Defence in that Cause, and to appear in it in person; because without his Lordships leave he could not come over, by vertue of this Proclamation. My Lord solicited his leave, first by a Petition, Aug. 1638. afterwards by several Letters, some, he (the Deponent) carried to his Lordship, who still denied leave, and would not suffer my Lord of Esmond to come over, till after Publication was granted in the Cause, which he conceives was in April; my Lord of Esmond having solicited from April, 1638, till April following.

Richard

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Richard Wade
Witness.

Richard Wade Interrogated, What my Lord Lieutenant said to him, concerning my Lord of *Esmonds* coming over?

He *Answered*, That on delivery of the Kings Letter to him, when he looked on it in the evening, the out-side (said my Lord of *Strafford*) is Secretary *Crookes* hand; and, to morrow morning, if you attend me, you shall have an Answer.

That the next morning, he (the *Deponent*) came to the Secretary *Carr*, who told his Lordship, The *Deponent* was there.

That my Lord sent for him, the *Deponent*, to his Study, and said, What needs my Lord of *Esmond* be so importunate, for he can do nothing there; but his Attorney and Agent may do it. Indeed, said he, the *Deponent*, My Lord intends only to go over to get a Commission to justify his Innocency: Why then saith my Lord of *Strafford*, I will not give way, he shall have no Commission but what is out already: and, if he have any Commission, it is but Negative.

Mr. *Palmer*.

And, Mr. *Palmer* observed, That by this meanes my Lord of *Esmond* came to be Sentenced; and, Mr. *Maynard* added, That so might the most innocent Man.

Lord *Roche*
Witness.

Lord *Roche* Sworn, and Interrogated, Whether he did not demand a Licence, and was deny'd; and, in what suit he thought to be relieved?

He *Answered*, That he prayed my Lord to give him leave, and he deny'd him: That his occasion to come over was about an Information, preferred against him half a year before in the *Star-Chamber*: conceiving, that there were some intentions against him, that tended much to his prejudice, by my Lord Deputy, and Lord President of *Munster*, who were the occasion of the Information, as he conceived; and, that he intended to come over, hoping he might do something with the King, and their Lordships; and, when he demanded Licence (his Lordship coming to take Ship, and he (the *Deponent*) conducting him) he deny'd it him (the *Deponent*) and the Suit was not pursued in five or six months; and, till my Lord went over nothing was said of it, which was five or six months more.

E. of *Strafford*.

My Lord of *Strafford* desired he might be Asked, Whether he was not then Prisoner in the Castle? he alleadging, That he was in prison for divers great Misdemeanors, and being Interrogated accordingly,

He *Answered*, That he was not a Prisoner in half a year after, till my Lord came out of *England*; nor was the Cause followed in five or six Months after he propounded a Licence to his Lordship, which was the day his Lordship went Aboard.

The next case offered is the case of *Dermond Mac Carty*, who had a Suit against him several times, dismissed in a Court of Justice, which my Lord Deputy took afterwards into determination himself, and made an Order against

against him in the Cause that was so diminished: *Mac-Carty*, Grandchild to him against whom the Order was made (who was not bound by the Order; having no Land, nor Office in *Ireland*, and so not bound by the *Proclamation*) desired leave to come into *England*, to Complain indeed of this Injustice, though he pretended it was for his Education, but was deny'd by my Lord, and by others in his absence, because my Lord had deny'd him before.

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The *Petition* subscribed by my Lord Deputy himself was Read, my Lord Acknowledged it to be under his own hand.

To the Right Honourable the Lord Viscount *Wentworth*, &c.

THe humble *Petition* of *Dermond Mac-Carty*, showing, That your Petitioner, for his Private Occasions, specially for better Breeding and Education, is desirous to Travel into the Realm of *England*; He therefore most humbly prayeth, your Lordship will be pleased, to Licence and Dispence with his Journey thither, And he will ever pray, &c.

Dublin-Castle, 28 June, 1637.

FOr Our Reasons, best known to Our Selves, We think it not fit to Grant the Petitioners Request; but do rather hereby expressly inhibit, and forbid him to Transport himself into *England*, or any part beyond the Seas, without Our Licence first had in that behalf: And, of these Directions the Petitioner is required, not only to take notice, but also obey the same, as he will answer the contrary at his utmost Peril.

On a second *Petition* preferred by *Mac-Carty* (because my Lord Deputy had refused to give him Licence) Sir *Christopher Wainsford* did also refuse his Licence.

The *Petition*, and the *Answer* thereunto purporting to that effect, were Read.

James Nash Sworn, and Interrogated, Whether the occasion of these *Petitions* was not to Complain of that Decree, made by my Lord Deputy, in a Cause, that had in a Court of Justice been dismissed?

He Answered, That he knew the passages of all the Causes, having been a Solicitor and Agent for the Father of *Mac-Carty*, and waiting on their occasions in *Dublin*. That after the obtaining of two Dismissions in the Suit, my Lord did Order and Decree for Sir *James Craig* 5496 l. against *Mac-Carty*. And, on this Decree, an Order, to Dispossess him of all his Fathers Estate; and he being Banish'd into a Foreign Part the young Man, for fear, would not come in and appear; but, hoping to have Redress in *England*, did *Petition* in this matter, in desire and hope to have Redress in that dismissal made by the Lord *Strafford*.

Nash Witness

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Mr. *Palmer* Opened the Case of *Parry* his Fine and Imprisonment, who is mentioned in the *Article*; That he was Servant to the late Lord Chancellor, was Examined before my Lord Deputy of some things that concerned his Master, and had Answered so much as it pleased my Lord to require of him. That after this (being used to follow my Lord Chancellors occasions) my Lord Deputy, to prevent his coming over, referred him to further Examination before the Judges, whom he attended five or six dayes, but there was nothing to examine him upon, for he had delivered all that was required, as fully as he knew; That finding my Lord Chancellors occasions very urgent, he came into *England*; and, as soon as he came hither, it seems he was followed with directions thence; for, by *Warrant* from Secretary *Cook*, he was apprehended by a Messenger; and the *Warrant* expresses it, that he was one that came over without Licence: That he was turned over to Mr. *Ralton*, my Lords Agent, and must give Bond to repair, and make his appearance in *Ireland*: Before that Bond was discharged, he did return; and, after his return, he Petitioned to be Discharged of this Bond, he conceiving he might come over without Licence, having no Estate nor Office in *Ireland*; yet notwithstanding he was Sentenced, Fined, and Imprisoned. It is true, the Cause expressed in the Sentence, is, Because he went away not being Examined; and the Sentence expresses, That he is not Fined for coming without Licence, but because he came away without being Examined.

Parry Witness

Henry Parry Sworn, was Interrogated, Whether the Copy showed unto him was a true Copy of Secretary *Cooks* Warrant?

He Answered, That he examined it with the Original.

The Warrant was Read.

These are, in His Majesties Name, to will and Command you, to make your present repair to any place, where you shall understand of the ——— of *Henry Parry* Gent. lately come out of *Ireland* without Licence; and, by Vertue hereof, to take him into Custody, and keep him safe till you hear from me.

Greenwich, 20 June, 1633. To Thomas Welch, Messenger of the Kings Chamber.

Henry Parry being Interrogated, What were the Proceedings with him about his Examinations in *Ireland*, before his coming over? And, What was the whole Process of the business?

He Answered, That 21 April, 1638, my Lord of *Ely*, then Lord Chancellor, his Lord and Master, was Committed to the Castle of *Dublin*, and, no sooner Committed, but he (the Deponent) was sent for to the Council Board, and, an Oath Administred to him, by the Clerk of the Council, on my Lord of *Straffords* direction. That thereupon his Lordship Interrogated him, Where the Great Seal was? He answered his Lordship, That he knew not where it was, unless it was with my Lord of *Ely*: And, after his Lordship had Examined him to that, he Commanded him

to attend the Judges the next day, to be Examined on some Papers of his (the Deponent) which his Lordship had seized and brought to the Council, and thereupon he was dismissed at night. That Monday next (this being Saturday) he attended the Judges alone to be Examined, and attended not only that day, but five dayes more, from thence to Saturday. That on Saturday, my Lord of Ely told him, He had occasion to send him over into England, and desired him to go: That he did come away with some Letters from his Lordship, to some of his Lordships Friends here; And, as soon as he came here with Instructions from his Lordship, the Instructions were given to his Lordships Friends, to Sollicite His Sacred Majesty for his Relief, and Enlargement out of Prison; and he continued a matter of two Months or thereabouts; and on that, one Thomas Welsh, by Vertue of Secretary Cookes Warrant, attached him, and kept him in Restraint about three weeks. At the end of three weeks he was sent for to Mr. Ralton, who told him, It was Secretary Cookes pleasure he should enter into Bond to go into Ireland, else he should be sent by a Messenger.

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That he (the Deponent) Answered, He could not pay a Messenger, but if he could not get leave to stay, he would enter into Bond to go to Ireland: That Mr. Ralton took a Bond, to appear the 10th or 12th of August following, this being in July, 1638. That he came into Ireland according to the Tenor of his Bond. That my Lord of Strafford being to go into the Country, he presented himself before his Lordship in the Gallery at the Castle, and acquainted his Lordship, that he was there to attend his Lordship, according to the Tenor of the Bond. His Lordship Asked him, Who took his Bond? he acquainted his Lordship, That it was his Agent Mr. Ralton. His Lordship Asked, What Warrant had Mr. Ralton to take Bond of you? He, (the Deponent) acquainted his Lordship, He did not know any Warrant he had: but, he said, He had direction from Secretary Cook.

My Lord Asked further, Where he took the Bond, if at the Signet-Office? No: said he (the Deponent) It was at his own house. My Lord Answered, That he (the Deponent) might do well to attend at the next sitting of the Council-Board. And, that he (the Deponent) going away, his Lordship called him back, and said, Methinks, Mr. Parry you are much Sun-burned, the weather is very hot in England. He (the Deponent) Answered again, The weather is very fair. His Lordship Interrogated him, Where my Lady Moore was? and, How she did? He (the Deponent) acquainted his Lordship, She was in England.

Here my Lord of Strafford interrupted him, Asking, If this was to the Business? but, having direction to go on,

E. of Strafford.

He Added, That my Lord Asked him, Why he did not stay abroad to help my Lady Moore to spread abroad her Malice against him (my Lord of Strafford) to which he (the Deponent) said, He could say nothing: and so was dismissed. That afterwards

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he attended with a Petition of my Lord of *Ely's*; and, that my Lord Asked him, Where his Petition was? He said, He had not any, but presented his Person. His Lordship told him, That it was Council-Board-day for Petitions, and wished him to come some other time: yet after, was called back, and had an *Answer* to the *Petition*. That the *Tuesday* following, (as he takes it) he appeared before his Lordship again, without any Petition, not knowing any cause he had to Petition: That, the next day after he Petition'd; and on Reading his Petition, the Constable of the Castle was called, and thereupon he (the *Deponent*) was Committed, and Censured (as he was told the next day) 500 *l.* That his Lordship Declared the Order of the Board, That he (the *Deponent*) was Fined 500 *l.* Bound to his Good Behaviour; Committed to the Castle of *Dublin*; and to Acknowledge his Offence at the Board, and to Mr. *Ralston*; and there he continued in Prison, and was utterly Ruined.

Being Asked, Whether he was heard to Answer in the Cause? or, Whether he was Examined after his Return?

He *Answered*, That he never put in *Answer* in Writing, nor was there any *Petition* against him, but only his own *Petition*; nor further Required to be Examined from that day to this.

Being Asked, How much of his Fine he paid?

He *Answered*, That before he could see his *Order*, he was fain to pay Sir *Paul Davis* 45 *l.* and, when he saw his *Order* for reducing it, for it was reduced from 500 *l.* to 250 *l.* of which he paid 184 *l.*

Mr. *Palmer*, Afterwards His Majesties Attorney-General.

Mr. *Palmer* proceeded, observing, That the next thing was, a Refusal of the whole Kingdom to Present their Complaints: It is true, said he, it was not by my Lord of *Strafford* himself, but it ensued on these Acts, and Proclamations; and that was hindering the Committee of the Parliament that were to come over, to make a Remonstrance of their Grievances to His Majesty.

Linch Witnesses.

Sir *Robert Smith* being Sworn, and Interrogated, Whether he was employed by the House of Commons to come over hither? and, Whether he was deny'd Licence?

He *Answered*, That we were sent for by my Lord Deputy *Wainford*, and he put us (as we conceived them) several catching Questions, as, If they had not my Lord Deputies Licence, and the Boards. Whether they would repair to *England* or no? We Answered, That, in obedience to the House of Commons, we did intend to repair to *England*. No, sayes my Lord Deputy, Answer me Catagorically; Would you go or no, If we would Command you not to go? to this we Answered, No: being between two Jurisdictions, both from His Majesty; for, we had a Command from the House of Commons, and a Counter-Command

mand from His Majesty, and we were denied Licence, and a restraint of Ships, for that cause they conceived to restrain them.

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Being asked, whether the Deputy did know the House of Commons had ordered them to come over, and yet refused ?

He answered, the Lord Deputy did know it, it was apparently known to all the Kingdom.

Mr. *Fitz-gerard* being examined to the same points, as Sir *Robert Linch*.

Fitz-gerard
Witness.

He *Answered*, That after the the Session of Parliament, 1 *Octob.* last, and the House of Commons had travelled till the 6 *Nov.* in the affairs of the Kingdom, the grand Committee had heard and discussed many grievances general and particular, and voted them to the House. That about the beginning of *Nov.* the House entred into consideration of those grievances, and drew up a Petition of Remonstrances to be presented to the Lord Deputy, which was voted in the House of Commons 7 *Nov.* 9 *Nov.* the whole House attended with the Speaker, and the Speaker read it publicquely before him. The grievances were of that nature, that they did Humbly, and of Right (as he remembers) petition for redress of those grievances; that the House conceiving the Parliament would be Prorogued, or Dissolved before Redress was given, they entred into consideration of a course to present it to His Majesty. And 11 *Nov.* made an Order: that the Committee should be appointed to repair to *England* with a Caution, That if Redress should not be had before Dissolution, or Prorogation of the Parliament, that Committee should not proceed. 12 *Nov.* it was Prorogued without Redress; that the next day after Prorogation the Committee was summoned to attend at the Board, and there was interrogated severally on a question, as far as he can remember, *viz.* Of their intention to go into *England*, whether they would aske leave to go into *England*? and admitting my Lord Deputy should command them not to goe, till His Majesties pleasure was known, whether they would go? To all they were severally to answer, and Categorically (this was my Lord Deputies word) after Answer given, they were ordered to withdraw, and being called in again, it was made known by the Lord Deputy *Wainsford*; That he and the Lords had considered the whole matter, and bade them take notice, there was a Proclamation, restraining all the Subjects of *Ireland* to make repair to *England* till application was made to the Deputy. That he engaged them in Allegiance, not to depart, till he (the Lord Deputy) had known His Majesties pleasure, whether they should goe or no, which he would labour to know speedily.

The next thing Mr. *Palmer* offered, was the Irish Remonstrance, which was read.

To

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To the Right Honourable the Lord Deputy, The humble and just Remonstrance of the Knights, Citizens, and Burgeses in Parliament.

THe Petitioners do conceive great and strong fears of a Proclamation published in this Kingdom, Anno 1635. Prohibiting men of Quality or Estate, to depart this Kingdom without the Lord Deputies Licence, whereby the Subjects of this Kingdom are hindred and interrupted from free access to His said Majesty and Privy Council of England, to obtain remedies against their just grievances, as their Ancestors have had, since the Reign of H. 2. and great Fees exacted for the said Licences.

Mr. Palmer.

And so Mr. Palmer summed up the Evidence, That by the Proposition made before my Lord Deputies going over, it appeared what was intended, That no complaints of oppression should be made without address, First, to the Deputy, and what followed, declares plainly the execution of it; That notwithstanding the injustice and oppression done, complaints could not be received: By the former Article, their Lordships have heard what he did there, and the great causes of complaint; After in time, is the Proclamation, their Lordships see the use made of it, that those who had made complaints against my Lord himself, and his Orders, were refused to have Licence; some that adventured to come without Licence were Fined and Imprisoned to their utter ruine. The whole Parliament, when the Order was well known, were refused to have Licence; it is true, not by my Lord of Strafford, but the Deputy, who coloured his denial from these Acts of my Lord of Strafford; what fears they had, their Lordships may apprehend by the Remonstrance; My Lord of Strafford assumed a great power to himself, all Addresses being first made to him, and the Subject thereby excluded from His Majesty, till such address was made; so that his Lordship is not *Par negotio*, but *Supra*, above all the authority committed to him; not an Accessary but Principal; not in the nature of a Subject but *Domini*, and so he expected his Lordships Answer.

E. of Strafford.

My Lord of Strafford after a little time of recollecting himself, began his Defence in substance as followeth.

That he should only apply himself to the things in charge, as near as he could, and give the fairest Answer he could, where, by the way he alledged, That he might very justifiably say, he had never in his life other thoughts or intentions before his going into Ireland, or during his abode there, but justly and faithfully in the service of His Majesty and the Kingdom; nor did he ever desire, or intend any thing, so much as to introduce the English Laws and Government there: And whereas he is charged with a subversion of the fundamental Laws, he may say, he thinks, with Truth and Modesty, that the Laws had never so free a passage, that never any Deputy gave less interruption to the proceedings of the Law, than it had, during all his time: That it did not appear by all that hath been said, that there was any stay of legal proceedings; for all the Causes spoken of him, came originally, and primarily, before they depended in any other Court; and that he never hindred, but gave all furtherance to the passage

sage of the Common-Law; and therefore if their Lordships find (as they cannot but expect from him much) Error and mistakes, he besought them out of their Goodness and Nobleness, to apply it rather to his Infirmary and Weakness, than to any habit of ill he had got, as he trusts, he should make appear to their Lordships. The Charge, is to have procured, with an intent of oppression, a stop of all complaints of Injustice, that none might be received in *England*, unless it appeared, That the party did make his address to him.

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To prove this, the Gentlemen have read a Proposition of his, made before his going into *Ireland*, and as appears, by their own shewing, such a Proposition as was allowed and approved of by their Lordships at the Council-Board. He desires that in this (as in all things else) he might not be taken in pieces, but altogether; for if they take part, and leave what they please, they may make a man speak strange things; and therefore he desired their Lordships would hear the reasons inducing that Proposition as well as the Proposition it self, being under the Clerk of the Councils hand, and so attested by Mr. *Ralton*: The Proposition and Reasons were accordingly read as followeth in substance.

Feb. 1631. A Proposition amongst divers others, entred in the Register of the Acts of Council 22 Feb. 1631. follows in *hec verba*.

That no particular complaint of Injustice or Oppression be admitted here against any, unless it first appear he hath made his Address to the Deputy.

And indeed, this is but justice to the Deputy, who must needs in some measure be a Delinquent, if the complaints be true, as being in chief universally to take care that His Majesties Justice be thoroughly complied with in that place; and therefore good reason his Judgement should be informed, and his Integrity first tryed, before either be impeached; Nay, it is but justice to the Government it self, which would be exceeding scandalous, through the liberty of complaints, and the Ministry therein extreamly discouraged, upon every petit matter to be drawn to answer here, when the thing it self is for the most part either injurious, or for which, the party might have received good satisfaction at his own door. But where the complaint appears formally grounded, and where due application hath been made to the Deputy, without relief to the party, let it be thoroughly examined, and severely punished, where-soever the fault proves to be, especially if it be corrupt or malicious; for so he shall not only magnify his Justice, but punish an unfaithful Minister, or clamorous Complainant, and his service shall thereby be bettered.

From whence my Lord of *Strafford* inferred, That by this it might appear to their Lordships, his intent was not to assume any greater Authority, than became him to desire; but meerly to prevent clamors and unjust complaints, and that they might be redressed nearer home without Complaint, and no way to hinder any mans just complaint.

And so it had no relation nor aspect to himself, but meerly to the furthering of the Kings Justice. And so that Proposition could not (he conceived) be turn'd upon him, otherwise then as Just and Honourable. For the Proclamation it self, and the staying of men from coming with-
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out Licence (the thing complained of) he begged leave to acquaint their Lordships with some particulars.

He conceived, by the Laws of Ireland, no man that is a Subject and Liege-man there, can come from thence without Licence from the Deputy, but it is very penal, and to that purpose he would mention two or three Statutes of that Kingdom; One is the 26 H. 6. ca. 2. The Title whereof is, An Act that the Kings Subjects, or Officers in Ireland, may be absent by the Commands of the King or Governor, or Council, without Censure of, &c.

The words of the Statute in substance.

Also it is decreed and agreed, that none of the Kings Liege men (who comprehend all, as he conceives) or Officers of the Land, go out of the Land, but by Commission from the King or his Heirs, Lieutenant-Justices, &c. All the Rents, Benefits, Offices, or other Possessions by their said Absence, shall be seized into the Kings hands, &c.

Whence my Lord of Strafford inferred, That if they go without the Governors Licence, there is a forfeiture of all these.

Another is 25 H. 6. Ca. 9. It is ordained, &c.

That if any Liege-man be out of the Kingdom, by the Commandement of the King or his Heirs, or the Lieutenant there, Deputy-Justices, or Council; Their Rents, &c. shall not be seized, &c. Whence his Lordship inferred, That if they go without Licence, they are punishable for it.

The next is a certain Article, preferred by certain Irish Agents then in England in May 1628. or thereabouts, long before he was thought on for a Deputy in Ireland, either by himself or any body else; and this is from their own desire and Petition,

Being attested by Mr. Ralton to be a true Copy, one Article was read, being in substance as followeth.

May 1628. **T**O the Kings most Excellent Majesty, the humble Petition of Your Majesties faithful Subjects, appointed Agents to prefer certain humble Requests, &c. to your Highness, in behalfe of your Kingdom of Ireland.

After the Preamble, amongst other things it contained,

That His Majesty would be pleased, that in respect of the non-residence of many great men, who spending their Estates abroad, the Kingdom was impoverished, and great sums of Money transported; Order might be taken, that both they, and all Undertakers, on whom Estates have been bestowed, for the better supporting and improving of the Kingdom, may make their personal Residence, at least half the year, and not to depart without Licence.

His

His Majesties Answer was given in these words.

ALL the Nobility, Undertakers, and others, who hold Estates and Offices within that Kingdom, are to make their personal Residence there, and not to leave it without Licence, such persons excepted only, as are employed in Our Service in England, or attend here by Our special Command.

Next my Lord of Strafford desired, he might read the Lord Faulklands Instructions, which, as he conceived, were pursuing to this, and they were, as he takes it, 24 May, 1628. which being attested by Mr. Brooks to be examined by the Original, was read.

C. R.

Instructions to be observed by, or, &c. Henry Viscount Faulkland, or Council there, &c.

ALL the Nobility, Undertakers, and others, who hold Estates, or Offices in that Kingdom, are to make their personal Residence there, and not to leave it without Licence; such persons only excepted, as are employed in Our Service in England, or attend here by Our special Command.

Next His Lordship offered His Majesties Letter of 20th of January 1634. Commanding the publishing of this Proclamation, which Mr. Ralton affirming to be a true Copy was read.

C. R.

To the Lord Deputy of Ireland.

WHEREAS amongst other things in the Graces vouchsafed to Our Subjects, 1628. We signified Our Pleasure, That the Nobility, Undertakers, and Others, holding Estates in Ireland, should be resident there, and not to depart without Licence: And being now given to understand, That notwithstanding those Directions, divers persons (not of the meaner sort) take liberty to pass into this Kingdom, or foreign parts, as if they understood not what they owed to Us in their Duty, or themselves in their evil Carriage, which presumption we may not long suffer, &c. We do therefore hereby Will and Require you, by Act of State, or Proclamation, to make known Our Pleasure, That all Nobility, Undertakers, and others, that hold Estates and Offices, (such persons only excepted, as be employed here, &c.) do hereafter make their personal Residence, and not depart for England, or other place, without privy of Our Deputy, any former Letters to the contrary notwithstanding.

And because We resolve to have this course constantly observed (if you shall have notice of any Contemner of this Command) Our Will and Pleasure is, That you proceed against them in an exemplary way to deterr others; And for so doing, this shall be your Warrant.

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E. of Strafford.

My Lord of *Strafford* observed, That he might well have hoped, that this being required by the Laws of the Land, that no man should depart without Licence, but it should be penal to him, having their own Articles, which desire the same thing; That by this Proclamation the Power of my Lord of *Faulkland* was established upon him; and the Kings Command for the issuing this Proclamation, being justified by the Kings own Letter, so that this should not have been laid to him, for so great and high a crime as it hath been represented to your Lordships; and he trusted that by that time, their Lordships thought it not so great a crime, as it might at first seem to be.

That he was not very hasty in issuing the Proclamation, (he having no interest in it, nor nothing to drive him forwards) for tho His Majesties Command was, bearing date 20 June 1634. yet the Proclamation issued not till Sept. 17. 1635. And because all he had said, had been turned on him as a crime, his Lordship gave this further Answer,

That there could be no Proclamation made by the Deputy alone, (he being absolutely restrained by his Commission, not to make a Proclamation without the Council) therefore he could not be singular in the fault, but had the consent of all the Kings Council; and for instance, in matter of Law, the Chief Justices are sitting at the Board, to whom all matters of Law are referred, and they are answerable for it; and are so learned, that they could not do things so frequently, without good authority; and this he offered in excuse of this, and all other Proclamations, not doubting but it was according to the Laws and Customs of the Land.

And for further satisfaction, that part of his Commission that concerned the Proclamation was read, and in this particular he desired leave to offer something more with all Humility, that tho none of these were for his justification, yet for Reasons of State, this Restraint was most necessary; for whosoever goes over Deputy, while these two great men (to term them no worse) *O Neal* and *Tir-Connel*, have Regiments of the most ancient Irish Septs, serving the King of *Spain*, under their Command, it is necessary for him to have an eye upon them; for if every one might withdraw himself at pleasure, without giving an account, it would open all the power and means that possibly can be, to distemper that State, and certainly if that liberty might be granted, he feared it would produce sad events in that Kingdom.

Moreover, if all the Primogeniture and Nobility of that *Religion*, should be suffered to go over to *Doway*, *St. Omer*, and the Jesuites Colledges, it was to be feared, they should not be so well brought up for the service of the King and Common-wealth, as may be desired; and therefore it was necessary, according to the constitutions of that Kingdom, that they shall give an account to the Chief Governor; And it was no other than what is practised here in *England*; no man being at liberty to goe hence into *France* without Licence. And certainly, said he, it is an Account we owe to the King, and stands with the Law of nature. *Pater Familia* may take accompt of his own Household, and the King being the great Father of the Common-wealth, we owe this Accompt to him; Therefore he conceived it can be no great offence in him, to do this on these grounds, and as he recommended the prosperity of that Kingdom, and His Majesties affairs there and here, to God, by his Prayers and good desires; so he wishes it might be taken into good consideration, that this may be continued as a principal and necessary expedient, to give His Majesty that accompt

account, without which, the Governor shall not be able to take just measures of things there. His Lordship then observed, that something had been observed, that was no part of his Charge, and therefore presumed their Lordships would not expect an answer to it, or conclude him any way in their Judgement guilty of it, since the means of giving that satisfaction, which otherwise he should have done, are now taken away.

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But when they came to be complained of in their proper place, he is ready to give such an account, as becomes a Just and Innocent man. But that which seems to be the foulest of them, was that concerning my Lord of *Esmond*, of which he remembred very little; but something darkly, and if it appeared not as he should say, he was extreemly mistaken; for what he did not know or remember, he would not speak of it confidently, and in short, the point is this,

Two men swear that he (the Lord of *Strafford*) denied liberty to my Lord of *Esmond* to come for *England*, Aug. 1638. and that he was kept in *Ireland*, and could not have Licence to come away till April 1639. His Lordship confessed it to be very true, and that he remembred my Lord of *Esmond* desiring to go over, was stopped by him a while, (he being Sergeant Mayor-General of the Army) the Army having occasion of motion, and that he was sure it was much about the time, if his Memory failed him not extreemly, (but when it came to this time, and he had means to produce witnesses, he hoped to make this appear) besides, he was mistaken, if he did not very shortly after give him a Licence, and that he found not occasion to make use of it; and if that was so, all they said was taken away, for he afterwards finding it to draw towards winter, laid aside the Licence till the Spring, at Spring he asked it, and had it; but in these things not judicially brought against him, and to which he could not make certain Answers, he hoped he might stand clear, and unprejudiced, till he may answer positively for himself; and then as their Lordships should find him, they might judge of him: and he should ever most willingly submit to their Judgements, and abide it whatever it was: And whereas the Witnessse said, my Lord of *Esmond* was hindred, because he had no Commission to examine Witnesses, my Lord of *Strafford* said, he was able to prove, that a Bond was granted him to examine Witnesses.

And the Witness being accidentally there, his Lordship took notice of Gods providence from that, and said, God Almighty was willing to help and assist him wonderfully in his Trial, and that his Goodness to him in this Cause had been a great deal more than he would trouble their Lordships withal at that time; but he said, he was confident, God had him in his protection, and would never forsake him; and whatsoever he should loose in this world, he would make it up to him in another world.

And for this purpose Mr. *Riley* was produced, who being questioned, whether he was imployed in suing out a Commission for examining of witnesses in *Ireland*, in a Cause concerning my Lord of *Esmond*, and Sir *Peirce Crosby*?

K k k 2

Mr.

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Mr. Riley,
Witness.

Mr. Riley Answered, That he was imployed as Clarke in the Cause, where Mr. Attorney was Plaintiff, by Relation of my Lord Lieutenant against my Lord of *Esmond* and Sir *Pierce Crosby*, and when that Cause came to Commission, they for the Defendant brought Commissioners names, and did joyn in that Bond, but he cannot remember the time.

Mr. Maynard.

Being asked (on Mr. Maynards motion) whether Sir *Pierce Crosby*, or my Lord of *Esmond* sued it out? He Answered, he could not directly say; but the Clerk for the Defendants could.

Mr. Ralton.

Mr. Ralton being asked to the same point.

He Answered, that he remembers, that about this time, 1638, or 1639. Commissions were sued out in the business, between my Lord Lieutenant and my Lord of *Esmond*, and Sir *Pierce Crosby*, and that he was very confident, that my Lord of *Esmond* had the benefit of examining Witnesses.

E. of Strafford.

My Lord of *Strafford* observed, that these Gentlemen stirred up those things, to beget an ill opinion of him, but in short answered, they were not in his Charge.

And further, That he conceived my Lord of *Esmond* was stayed on a complaint of Sir *Walsingham Cokes*, concerning a practice of his, to the endangering of Sir *Walsingham's* life. And that he was stayed upon that account, to be examined, and if he (the Lord *Strafford*) was not mistaken) my Lord *Esmond* was, after examination left at liberty; But these things he said, were rather aggravations of his Charge, than within the Charge, and therefore he humbly conceived, that in these cases their Lordships would allow him liberty, and hoped the Gentlemen will likewise allow it, that so he might satisfy them, their Lordships, and all the world, that he hath carried himself justly and fairly in all these particulars; Also assuring himself, that these Gentlemen were willing he should give the best answer to all these things he could; And so he would, and that with all respect and reverence to them in the world.

The next Case is my Lord *Roche*, and his Lordship conceives, that my Lord *Roche* himself gives a fair answer, for he was informed against him in the *Star Chamber*, and my Lord of *Strafford* said indeed, he remembered there was such an occasion for it, as he was willing to forget it, for that noble Gentlemans Cause, and that the complaint was of so high a nature against my Lord *Roche*, as he was not willing to press it, to his prejudice, nor ever did, but where there was great reason: and when he should come to answer for it (for he imagines it is not expected he should answer it finally now, being not within his Charge) Heaven should justify him, and shew that he had reason to stay him at that time.

The next is *Dermond Mac-Cartyes*: and, the Cause of his stay appears to be, That he would go abroad for his Breeding. Now if he and such other should go to *Damay* and *S^t Omer*, he thinks their Lordships and the House of Commons would have blamed him more for giving him and such persons leave, then faulted him for restraining them: And, had he alleadged, That he intended to go over to Complain of that Decree, he would not have hindred him; and, to that purpose, he hath Witnesses, that he never stayed any Man, that pretended he would complain of him. The Decree was made by a Letter from His Majesty, on a notable fraud of *Mac-Carty* (the Father) in the Case of Sir *James Craig*, and he that Swears in it is Solicitor in the Cause, and so not altogether so competent a Witness.

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But, these are all on the by, and come rather to prove an Intention, then that which is pressed on him, as a thing to which he is properly and finally to Answer.

The next is concerning the Sentence of Mr. *Parry*, in which business my Lord humbly offered, That no Testimony is yet produced, other, than the Testimony of the Party himself. Now, if the Judge may be Convinced, and Condemned on the single Testimony of the Party grieved, he knows no man would willingly sit in Judgment on these Termes: and, out of this single VVitness (being qualified with the attribute of the party grieved) Must he be Condemned, that was one of the Judges?

But, as they have Proved nothing Judicially, that can weigh with their Lordships, it will be fit for him to justify himself for this Sentence, so far as comes to his share, for all the whole Board consented to it: And therefore he besought their Lordships, to give him the honor, To offer the Sentence given against Mr. *Parry*, wherein their Lordships would see the Reason, that it was not for departing without Licence, but for great and foul neglects and contempts to the Board.

Mr. *Gibson* Attesting it to be a true Copy, the Decree of the Deputy and Council was Read, being in substance;

Mr. *Gibson*.

WHereas Henry Parry, one of them who attended the Lord Chancellor, as his Lordships Register-keeper, or Clerk for private Judicatures, and Keeper of the Books of these Private Proceedings, was Commanded to attend the Board to be Examined; And whereas in Contempt thereof, he not onely neglected to attend accordingly, but departed this Kingdom, which being represented to His Majesty, it pleased His Majesty to require his return hither to attend this Board; To which end a Bond was taken for his Appearance here the next Council-day, after the 12th of Aug. and whereas he was present himself at this Board 9th October, 1638, but offered no Petition; as if he disdained so far to humble himself to this Authority; whereupon it being made known to him, That it became him, in the Duty he owed to the dignity of this Board, to come by Petition, as all other Men: but he forbearing to exhibit his Petition, till he was called by us the Deputies to do it; and then when he exhibited it, he therein misrecited his Offence; alleadging it to be for his repairing to England without Licence; whereas

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Licence; whereas his Offence was, The disobeying the Orders of this Board. Secondly, He laid a Tax on William Ralton Esq; Alledging, That on pretence of Direction from Secretary Cooke, he took his Bond for Appearance here; whereas he knew it was not by any feigned direction, but by appointment of Secretary Cooke, by His Majesties Direction. Thirdly, In stead of humbling himself, he desired Cancelling of his Bond, and Dismission from attendance; and the rather, because he conceived he had not in any degree transgressed the Proclamation; cautelously alledging that to be his Offence, which was not laid to his Charge. And, forasmuch as his first Offence in Esloyning himself to shun the guilt whereof he was convinced; and after his bold and insolent behaviour at this Board (in answering plainly That he conceived the Command of the Lord Chancellor ought to free him from the Command of this Board) deserves such proceedings against him, as may be both Punishment to him, and Example to others: It is therefore Ordered, That he stand Fined in 500l. Bound to his Good Behaviour; stand Committed to the Castle during the Deputies pleasure; and make acknowledgment of his Offence at this Board. And, the Form of his Submission is set down, I Acknowledge I presented a Presumptuous and Untrue Petition, &c. Given 30 October, 1638.

The Names of those that Subscribed it were also Read.

Whence my Lord of Strafford observed, That he was not Sentenced for going without Licence, but for other Causes; and desired my Lord Dillon, and Sir Adam Loftus (whose hands are to the Decree) might be Asked a Question or two. And first to the business of my Lord of Esmond, which had been forgot before.

*Dillon Wit.
ness.*

Robert Lord Dillon being asked, Whether he remembered any Charge laid against my Lord of Esmond, for a practice against Sir Walsingham Coke? whereupon being Examined, And, When it was?

He Answered, That he remembered it was about that time, when a Letter was written from the Judges of Assize that went the Circuit of the County of Wexford; and they Reported, That they had taken Examinations: Whereupon it was mistrusted, or at least suggested, That my Lord of Esmond was to set some on to cut off Sir Walsingham Coke; and, this being taken into consideration, it was resolved, That till the Judges had determined, Whether it was Treason, or not, he should be stayed for a time; and, as he takes it, it was Resolved he should be Advertised into England.

Mr. Maynard

Being Asked (on Mr. Maynards Motion) What time this was?

He Answered, The Question is sudden to him; but, it was much about the time that my Lord of Esmond had been in Town before; but, he cannot expressly speak to the time.

But, my Lord of Strafford observed, That the Complaint came from the Judges of Assize, when they came from the Circuit, and that was always about August.

Lord

Lord Dillon being Asked, What year it was?

He Answered, He cannot tell the year of the Lord in Terms: but, he remembers, it was much about that time when my Lord of Esmond was Questioned, and about Summer Circuit.

My Lord of *strafford* proposing, That my Lord *Dillon* might be Asked, What he remembered of the Sentence against *Parry*? and, What his behaviour was?

To this Mr. *Maynard* excepted, as not proper to Examine the Judge, Whether his Sentence was just or no?

Mr. *Maynard*.

To which my Lord of *Strafford* Answered, That it is as equal the Judge that gives Sentence should be Examined, as the party against whom the Sentence is given. That this is a Sentence for things spoken and done at the Board, which stands not on such Niceties; but Contempts and Misdemeanors to a Court are frequently determined, without Examination of Witnesses; and, this is a Misdemeanor done in the place.

But, my Lord *Dillon* being spared from Answering,

Sir *Adam Loftus* was Examined, What he knew of that practice of my Lord of *Esmond*, against Sir *Walsingham Cokes* Life? And when?

He Answered, That the first time he heard of it, was, upon an Information of the Judges of the Circuit to my Lord Deputy, then in *Ireland*, as he takes it; and, he thinks, my Lord was not then in Town, but sent that Information to the Council at *Dublin*, his Lordship being then at his Countrey-house; and therein, some Practice against Sir *Walsingham Coke*, of certain Rebels and Outlawes, that had laid in Ambush near his house, was set forth; and thereupon that Letter was sent to the Council to Consider of it, and take course for his Security: That this was not all neither; for, the Examination of a Rebel in the Castle, brought it home nearest to my Lord of *Esmonds* Case. But, because the Rebel was a Man of that condition, it was not thought his Testimony could be prevalent against my Lord of *Esmond*: therefore the other Witnesses were sent for to be Examined in the Cause. Now, this Course of Examination held a matter of three weeks or a month, or thereabouts (he doth not well know the time) but, these Men not concurring with the Testimony of the Rebel, in Restraint, there was no words made of it; but my Lord of *Esmond* was dismissed, and left to take his own Course. The time was, as he takes it, in the Summer Assizes, 1637, or 1638, he knows not which: And this is the truth, and all he knows of the business.

Whence my Lord of *Strafford* Inferred, That being under that Charge of Sergeant-Major-General of the Army, he denied him liberty to go into *England*; but, as soon as he was clear, he had his Licence.

E. of *Strafford*.

Mr. *Maynard*

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Mr. *Maynard* desiring their Lordships to observe, that my Lord of *Strafford* Explained himself thus; That he thought so, or very shortly after: And added, That the Gentleman is very quick with him, being a Man of great understanding, and himself a weak Man. But, that he means very justly, and would not be taken in an Untruth; and said, That he hath a Servant that was with him, when my Lord of *Esmonds* Agent came to him, at his House in the Countrey; And desired, he might be Asked, What Answer he gave him?

Francis Wetheringe being Asked, VVhat he knew concerning my Lord of *Straffords* giving of Licence to my Lord of *Esmond*?

Mr. *Wetheringe*.

He Answered, That he remembers very well that the Gentlemen were Examined, before they came to *Fairework-Parke*; while he was waiting on his Lordship at that time, the Gentleman came to him, and desired him to tell my Lord he would speak with him: that he heard my Lord say, It was concerning his Licence, to repair to *England*; and, my Lord said, He should have it; but, it was Winter time, and he would let it alone till the Spring.

Being Asked, What Month it was?

He Answered, He could not very well remember, but it was the latter end of Summer as he thought.

Ralton.

Mr. *Ralton* being Asked, Whether the business of my Lord of *Esmond*, and Sir *Walsingham Coke*, were not Advertized over hither?

He Answered, That he doth very well remember the business (he being then Agent for my Lord Lieutenant.) That in one of his Letters, or the Councils, *Advertisement* was given of this practice against Sir *Walsingham Coke*; and, as he takes it, was in Sept. 1638. or thereabouts; and that my Lord was pleased to do him (the said Mr. *Ralton*) the favour, to give him some passages of it.

E. of *Strafford*.

Therefore my Lord of *Strafford* desired, These things might not stick with their Lordships, or the House of Commons, to his prejudice; when he had not Means, nor Possibility to make his Defence: but, that in Charity they would reserve their Opinions till they found the truth to the bottom; and then he hoped he should appear an honest Man, and that was all he pretended to.

For the *Remonstrance of the House of Commons in Ireland*, it is no Evidence, but a Charge to call him to Accompt rather, than to Condemn him or Judge him by: For, it is the *Remonstrance* of the Commons House, that have not power to give an Oath, and so may be easily misinformed, when they want a Meanes to try out the Truth.

But, for the *Great Fees exacted for these Licences*; Here are two of his Secretaries employed in this business, whom his Lordship desired might be

Examined

Examined, What Fees they demanded, and had in this particular? He added, That he durst say, Thousands that went over without Licence were never question'd for it: nor any, but where there was Cause; as, in Case a Man was ill-affected, and then he was looked after.

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Mr. Slingsby being Asked about the Fees for Licences?

He Answered, They did give the Clerks directions never to demand any Fees for Licences; and, that the Clerk never accompted to him for above Five shillings for any Licence, which he said was voluntarily given, not demanded.

Slingsby
Witness.

Mr. Little being Asked to the matter of Fees?

He Answered, That he Charged his servant still to demand no Fees for Licences, except of Privy-Counsellors, or Officers of the Army; and, when they had Licences they paid for them; and, the Fee of the Licence from the Captains was 20 Shillings; the ordinary Fee for others Five shillings; and, many times none at all was paid.

Little Wit-
ness.

And then my Lord of Strafford added, That he had now gone over all the particular Proofes, as near as he could remember them: And, the last he shall insist on is this. That there is nothing in this Charge as he conceives of Treason; and he must needs Conclude every Article so, in regard Treason is the only thing he is Charged withal: And, he conceives he hath given such Answers to this, that nothing shall convince him before their Lordships of Treason. And, for matter of Misdemeanors, he knowes their Lordships will give him time to examine Witnesses, and leave for his Counsel to be heard, and then he shall Acquit himself as becomes him; and so with all humility, submit it to their Lordships.

E. of Strafford

And thus his Lordship concluded his Defence.

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REPLICATION.

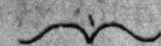
Mr. Palmer Replied thereunto in substance as followeth;

That my Lord of Strafford, in the Preamble of his Defence, hath made a great Profession to their Lordships of his endeavour to preserve the Laws in Ireland; and, that no Deputy did ever less interrupt the Legal Proceedings: Which, though it be not the matter of the Cause, he desired leave to put their Lordships in mind, how much he hath interrupted the legal proceedings, because it hath been another part of his Army.

That it hath been fully proved, How he Assumed to himself, out of the ordinary Jurisdiction, Causes to be heard before himself, on Paper Petitions, which, how grossly he hath determined, their Lordships have heard: And, whether this be not an Interruption to legal proceedings, he submitted

Mr. Palmers
Reply.

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Mr. Palmer.

ted to their Lordships, and also left them to Judge how contrary it was to this Profession of my Lord of *Strafford*.

To the Matter of the Defence, *viz.* *That these Particulars were not complained of*; Mr. Palmer Answered, It is true, There is no particular Complaint in the *Article*: but, my Lord of *Strafford*, in his Answer, said, He never deny'd Licenses to any man to go into *England*, and that puts it in Issue, and gives occasion to prove his Denial.

To the Reasons of his Propositions, Mr. Palmer observed, they were, *viz.* Because he was responsible for the Justice of the place; and therefore good reason his Integrity should be tried before any Complaints came: The Officers and Ministers of Justice should not be drawn from thence on every Complaint, where they might have redress at their own doors. These are fair shows, and something must be said to induce His Majesties Allowance; and, as much as Art and Skill could invent to prevent the Subjects access to their Sovereign with Complaints of Injustice and Oppression; It must have a great deal of Wit and Art to colour it, and so he uses it: Their Lordships cannot expect it from him, nor will their Lordships expect it in the Proofs, that he should tell His Majesty he doth all this, that they may not complain of Injustice and Oppression, for this is a hard thing to be done; But, the thing it self shewes for what end he obtained it, his many Acts of Injustice prove, *Quo obtentu*, this Proposition was gotten; If this had been gotten on the fair grounds pretended, then, upon Complaints here, His Majesty, in consideration of them, had had it in his own power, to have referred them back to *Ireland*, if they were misinformed; but, means were used that they should not come to the King, the Barr was laid with the Secretaries, and Masters of Requests, that His Majesty should, by no means know, as to consider of the fitness, or unfitness of them.

For the Matter of the Judges and Ministers being withdrawn; it is true, they were most likely to be complained of; but, when they cannot be complained of but to my Lord of *Strafford*, this draws a great Dependence on him, and makes them amenable to his Will. As, in the Sentences wherein they concurred, and whereby he would justify himself.

Again, the discouraging of Complaints in this Proposition, and the Arguments used to His Majesty, provided a Punishment for Clamorous Complaints; so, that they, which had Cause of Complaint, being terrified with a Punishment (though they were not Clamorous) might now be made appear to be so.

For the Authorities whereby he justifies this *Proclamation*. First, He insists on the Lawes of that Kingdom, that by the Law they could not depart the Realm, and that by an Implication 25 H. 6. But, Mr. Palmer observed, that that is no Prohibition of coming out of *Ireland*; but, if any Liege man, &c. shall, by the Kings Command, depart the Realm, his Lands should not be seized; and, the only inference can be, That if others went without License, their Lands might be seized, but not that their persons might be restrained from coming without Licence.

There were such Provisions and Ordinances in *Ireland*, to which the Instructions following, and His Majesties Letter had Reference; That those persons that had great Possessions in *Ireland*, in time of Discord, were to be resident upon their Land Personally, so that their Land might be maintained against Incurfions. And, this is plain, by a Statute 28 H. 8. Ca. 3 Reciting the Inconvenience from those they call *Absentees*; That is, that having large Possessions by Descent, or Graunt, did Demurre in *England*, and

and left those possessions unsafeguarded; and, by this means, the Lands (which His Majesty had been at great Cost in Conquering) were regained by the *Irish*, and therefore there was a Penalty on those Lands; and, it is provided, that the King shall be Entitled to the Duke of *Norfolkes* Land for that cause: But, here is only a Provision that the Lands should be safeguarded, but not that the Subject should not resort to the Kings Majesty, for redress of Grievances and Oppressions, and that is in the Charge against my Lord of *Strafford*.

For the Instructions of *May*, 1628, on a Petition by the Inhabitants; the Petition was, That they might make personal Residence at least half a year; but, that related to Undertakers, and others that have Lands and Offices there, and so was for the same purpose that the Lands should be safeguarded: But certainly, there is great difference between Residence, and Restraining a Resort hither to make Complaint to His Majesty: It is true, there should be a Residence, they were not to depart without Licence; but, if they had Temporary occasions, or Reasons of Complaint, it is not against the Instructions that Licences should be deny'd.

My Lord insists on this, that it is the Law of the Land, and agreeable to the Laws of this Land, and he would willingly bring the Laws of this Land into *Ireland*. But, under favour, the Laws of this Land are not so; It is no offence, or Contempt for any Subject, to depart this Land without Licence: Our Books are so. The Statute 5 R. 2. did provide, that none should depart without License (a general Prohibition) except they were Lords and good Merchants: Therefore, by the Law, (before that Statute was) any Man might depart without License; and, that Statute is since Repealed, by a Statute made 4 Jac. So that by the Common Law of *England* the passage is open again; and, it is no offence at all to depart without Licence. It is true, His Majesty may restrain by a *Ne exeat Regni*, &c. or by a Proclamation on special Causes, but till then the passage is open, and they may depart by the Law of the Land, and the Penalty is only in the Case of the *Absentees*.

My Lord alledges the Kings Letter; There is as much skill as can be for a Defence, The Proclamation reciting these Letters, and the Instructions. But, the grounds are false: for, that which is appliable to a Residence for Defence, my Lord makes a ground to restrain all kind of Resort.

My Lord takes notice of his Moderation, in Executing the Kings Letter, in respect of the distance of time, between the Letter, *January* 1634, and the Proclamation, *Sept.* 1635. If it had been a Service to His Majesty, it should have been speeded sooner; It was a disservice in being so long delayed, if the matter required it; but, there was something else; It was not fit for my Lords opportunity till then; and, when it was fit he publish'd it, and not before.

My Lord deserting his Justification by the Proclamation, as a Temporary Law (as he may, for Proclamations be not Temporary Laws, in case they be against Law, but Publication of Lawes.) Now, he insists on this, That by his Commission he himself hath not power to publish Proclamations, but by advice of others; So the power is not in himself alone, for he had the Concurrence of other Counsellors joyned with him.

Mr. *Palmer* desired their Lordships to observe his own Answer; and, the Reason, why that Unreasonable allowance was got, which is, That he is Responsible for the Justice of that place; and, if he be so, he takes but their Concurring with him; in a thing so much against Law, it may make it an Offence in them, it cannot extenuate his Offence.

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He insists on a necessity of this, that it is fit for that Kingdom, and wishes it might be so continued; and that in several respects; in respect of O Neale, and Tirconnel, and the Rebels that adhere to them; and that it might be dangerous, if those in Ireland should go out at their pleasure. Indeed, if their Resort were thither, it were true; But, the Commons having offered nothing, but their Request to come into England, where there is no O Neale, nor Tirconnel, to Complain to the King of Oppressions: and, however my Lord of Strafford doth conceive it fit in Ireland, their Lordships hear by the Remonstrance, what Just Fears they apprehended; It is an Innovation brought on them, which was never on their Ancestors from the time of Henry the Second.

The next thing was his Demeanor in the Execution of this Proclamation; Then he made that General Protestation, That these particulars were not Complained of. To which Mr. Palmer said, He must Answer as before. My Lord hath put it in Issue, That he never did deny Licence, which casts the Commons on Proof, That that in particular hath been deny'd.

The Case of my Lord of Esmond is observed to be in time, 1638. And whereas it is said, A License was deny'd, because there was some Charge against him, of practising against Sir Walsingham Cook. This needs no other Answer, but what Sir Adam Loftus has given, That the business was continued in Examination no longer than three weeks, or thereabouts, and was then dismiss'd; whereas the Denyal continued longer. But, if it be truly informed, This demand of Licence to come over was in August; the Information came not till September after: so that the Information cannot be applyed to avoid the Denyal of the Licence.

Torky
Witness.

Torky being Asked the time of year the Summer Assizes used to be in Ireland?

He Answered, That he hath observed them, since his knowledge of that Kingdom, to be in September for the County of Wexford.

Whence Mr. Palmer Inferred, That if the Petition were in August, the Assizes in September, this could be no Reason, why in August an Information in September should be the Cause of denying the Licence.

My Lord sayes afterwards, He did give him a Licence; but your Lordships may remember, it was not till the opportunity was past of examining Witnesses. And, whereas it hath been said, in Answer, That my Lord of Esmond did joyn, and Riley was produced; yet Riley sayes, There were two Defendants, Sir Pierce Crosby, and my Lord Esmond; and, for whom the Commission was, he cannot tell: And, if there were a Commission, it is very ordinary to have more then one; and, if it be desired, a second is just as the first. Mr. Ralton sayes, he is confident there was a Commission; if there was so, Why is not that Record produced?

The

The next particular was my Lord *Roche*, and the Answer to that is, Article XVI
That there was an Information against him in the *Star Chamber*. It is true, but that had ceased half a year before he desired a Licence, and therefore could not be a cause to hinder a Licence.

For *Dermond Mac-Carty* it is said, his Petition was for liberty to go over for breeding, and therefore he might go to *Doway* or *St. Omer*. &c. But their Lordships might observe this Petition was to come into *England*, and the occasion was his Relation to that Suit, and that is conceived the cause of denying that Licence; for my Lord could not but know that *Mac-Carty* had relation to the suit before him, which was decreed after a double dismissal, and it is no Exception that the Witness is his Solicitor in the Cause: It is ordinary that the Solicitor be admitted a Witness, and the best Witness in Courts of Justice.

And to answer that fully and clearly, it shall appear, that this very thing is assigned by Secretary *Little*, to be the reason why he should not go over, that he might not complain of his suit, and a Witness did depose to that effect.

John Meaugh being sworn and Interrogated to the Cause of denying the said Licence.

He Answers, That he went to *Dublin* with *Mac-Carty* the Son, with the Petition, and that Secretary *Little* took the Petition in his hand, and said, Are not you *Mac-Carty's* Son? Yes said he. And you intend to go and complain against the Order my Lord conceived against your Father? No indeed, says he, I do not; Says the Secretary, I will take your Petition and deliver it to my Lord, and I believe my Lord will not grant your Request, and they left the Petition and went out. A little after, a kinsman of his, the Deputies Master, *Sir Valentine Brown* said to him, the Son, I have heard my Lord hath granted your Request in your Petition; so they came to the place to receive the Petition, and this is the Petition shewed their Lordships, when his, the Deputies Master saw the Petition, he would not take it. Take notice Gentlemen, saith Mr. *Little*, what Charge he hath, and if he doth any thing to the contrary, let it be on his peril; so they took the Petition, and went away.

Against *Parries* Testimony; First, my Lord says, he is a single Witness, but if that be not admitted, there is no need of his Testimony; for Secretary *Cook's* Warrant proves what was the reason, and their Lordships may know whence that came. His Sentence is thus far in question here, whether he was sentenced for coming over or otherwise; It is true (and that is the iniquity of it) the sentence doth express it to be for another Cause; It is not usual in Sentences, to say what it is not for, but what it is for; but it is for his not petitioning the Council-Table, and setting forth after in his Petition, that his offence was his coming over without Licence; and saying Mr. *Ralton* pretended Secretary *Cook's* directions, whereas he must so speak truth, as not to be charged with a pretence. And it were most just to sentence him for coming without Licence; then for his being not called, nor any way

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E. of Strafford.

way able to answer the Defence. That others are joyned with him in the Sentence, it doth not excuse his Lordship: They shew the more dependencie upon him, and by this means, no complaints of Injustice or Oppression, can be brought to any but himself, and that brings them under his wing; However, the fault is in them, as well as in him.

The Remonstrance he says, is only a Charge, but it is the Declaration and Voice of all the People, of sufficient credit, to represent their grievances, what they conceive to be their true Liberty, and how they have used it ever since the time of H. 2. Which is, that they should have redress for grievances, which is no other than the Common-Law; That the Subject should have free Access to the Sovereign.

His last is, That there is nothing of Treason in this: And to this the same Answer is given, as to all the rest, which are not individual Treasons. The Multiplication of Acts, all containing something in them of an Arbitrary power, conclude, as effects from the cause, from whence this proceeds.

And this thing is not so petty as my Lord makes it, to deny the Access of the Subject to their Sovereign; and tho it be allowed by His Majesties Letter and Instructions, yet these being obtained by himself, make it worse, he taking so Sovereign a Power, that *Non sentit parem, nec superiorem.*

Mr. Palmer instanced in that great Case of the Marquis of Dublin, that had the Dominion of Ireland granted him, he had *Merum & maximum Imperium*, under the Broad Seal, and his Patent passed in Parliament, yet it was one of the Articles charged on him, for it tended to the Severance of the Allegiance of the People from their King.

In the next Article their Lordships shall hear his demeanor to those of the Scotch Nation.

Mr. Maynard desired to add a word to what had been said; First, My Lord says, that the particulars are not in the Charge, but that is a mistake, for this Case of *Perry* is particularly charged, and divers others; it is true, the rest are general, but this is particular, so the Charge is good in that.

And whereas my Lord had endeavoured to justify this by Law. Mr. Maynard observed, That they do not lay the point upon that, how far the Subject may be restrained in that particular: but here is the sting of my Lord of Strafford's proceedings, he takes this (be it lawful or unlawful) to prevent the Complaints which might be brought to His Majesty against his Injustice, for he hath done all that to this people: now an ill intent may make that ill which in it self otherwise will not be ill; and he besought their Lordships to take this into consideration, what a miserable condition the Subjects of Ireland are in, when there are never so great grievances laid on them, yet they cannot complain, and no complaint can be received, unless he that oppresses them, gives them leave so to do, and when their oppressions rise so high, when shall he give them leave?

My Lord of Strafford says, Thousands have come, yea many he is sure, that have not been punished nor questioned. Whence Mr. Maynard observed, That it is ill luck that the oppressed are always punished, others may goe

go without punishment; but it falls out unhappily, That they that have Complaints against him, are the men that are restrained, and it may not be thought that they will bear a Complaint sometimes, that they may seek a better opportunity, when they shall see such examples; that is, one Fined for exhibiting a Petition, and saying, that is untrue; when against another, an Information that hath laid dead halfe a year, shall be quickened upon that occasion, and they must be punished more, that are more oppressed, as in the Case of my Lord of *Esmond*.

And whereas my Lord of *Strafford* says, he never punished any, where there was Complaint before. Mr. *Maynard* besought their Lordships to observe, that it is point blank contrary to the Evidence, and Oath before their Lordships; for in that particular Case of *Mac-Carty*, there were two Dismissions: It is true, the Merits of the Causes are not proper to be offered, but there is cause to take Confidence, that where it is called a fraud on *Mac-Carty's* part, when it is examined, it will be a very heavy oppression.

And whereas it hath been said by way of Justification (mitigation at least) that there hath been no Fees taken for Licences, but such as were given voluntarily, except in case of Officers of the State, or the Army; proof was offered, that Mr. *Little* that takes on him to swear for himself or his fellows, tho he did not know whether it were or no, hath denied Licence without Fees; and that certain Fees were demanded, shall be made appear.

Whereupon *Richard Wade* being Interrogated, whether Fees were not demanded by the Secretaries, for Licences of mens passage into *England*, and what Fees?

Richard Wade
Witness.

He Answered, That for Fees for my Lord of *Esmond's* Licence, he was demanded 24 or 25 s. .

Patrick Gough being asked to that point.

Patrick Gough
Witness.

He Answered, That he remembers he hath taken Licences twice or thrice for my Lord Viscount *Mountgomery*, and for every one of them paid 25 s. and for three of his servants 25 s. and that those were demanded, for he (the Deponent) would have given less if they would have taken less, and that these were demanded by Secretary *Littles* Servants.

Mr. *Glyn* desired one word more, and the rather, said he, because it seems my Lord of *Strafford* slights this Article, which is the most proved, and the least answer'd of any yet heard, their Lordships may observe what is laid to his charge, the subverting of Laws, and the introducing of a Tyrannical Government. And before he goes about his work, he puts off all means of redress beforehand; that if he give any occasion of offence, he that is offended, shall not possibly have remedy. His justification is, because of that great danger that may ensue, for they may joyn with Rebels, but that's a pretence; Indeed he used that Argument when he moved it to His Majesty; but it was, that they might not come over to make complaints.

Mr. *Glyn*.

That

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That his Propositions were made, and entred at the Council-Table, here he aggravates his offence, and Mr, *Glyn* did thus illustrate it; That if a man come to him, and desire leave to lye in his House, if he gives the party leave, and he by that means takes occasion to betray him, or to commit Felony, or steal his Goods, That leave was well given, but it aggravates the others offence, when he doth mischief to him that lodged him.

So my Lord of *Strafford's* Proposition was fair, but if their Lordships observe the subsequence of it, that he might exercise his Power, and leave the Subject without means of redress, but they must come to himself for it. Mr *Glyn* further said, he thinks, had he suffered under his hands after the example of my Lord *Mountnorris*, he should be loth to say to his face, he would complain.

An Act of Parliament he produces for his Justification, which is plainly against him, for it shews there were some that held Lands there by tenure, and if they were not resident they forfeited; Then comes the Act and says, That those whom the King commands to be absent, they shall not forfeit, which shows they had a personal Power without Licence; so that the very Law produced, is expressly against him, and there Lordships may see by his own Proposition, the occasion of his introducing this Letter. And Mr. *Glyn* concluded, That he supposes that my Lord of *Strafford* hath made no answer to that.

And so the 16th Article was finished, and the 17th and 18th being for the present set aside, the Committee that managed the Evidence, proceeded to the 19th Article.

THE

T H E

Nineteenth Article.

The Charge.

19. **T**hat the said Earl having Tared and Levied the said Impositions, and raised the said Monopolies, and committed the said other Oppressions in his Majesties Name, and as by his Majesties Royal Command; he the said Earl in May, the 15th year of his Majesties Reign, did of his own authority, contrive and frame a new and unusual Oath, by the purport whereof among many other things, the party taking the said Oath, was to swear, that he should not protest against any of his Majesties Royal Commands, but submit himself in all Obedience thereunto; which Oath he so contriv'd to enforce the same on the Subjects of the Scottish Nation, inhabiting in Ireland, and out of a hatred to the said Nation, and to put them to a discontent with his Majesty, and his Government there, and compelled divers of his Majesties said Subjects there, to take the said Oath, against their Wills, and of such as refused to take the said Oath, some he grievously fined and Imprisoned, and others he destroyed and exiled; and namely the 10th of October, Ann. Dom. 1639. he fined Henry Steward and his Wife, who refused to take the said Oath, 5000 pounds apiece, and their two Daughters, and James Gray, 3000 pounds apiece, and imprisoned them for not paying the said Fines. The said Henry Steward, his Wife and Daughters, and James Gray, being the Kings Liege people of the Scottish Nation, and divers others he used in like manner; and the said Earl upon that occasion did declare, that the said Oath did not only oblige them in point of Allegiance to his Majesty, and acknowledgement of his Supremacy only, but to the Ceremonies and Government of the Church established, and to be established by his Majesties Royal Authority; and said, That the refusers to obey, he would prosecute to the Blood.

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Charge.

Mr.

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Mr. Whitlock proceeded to open the 19th Article, setting forth in substance as followeth.

TH A T the next Article in which they shall proceed, to make good the Impeachment of all the Commons of *England* against my Lord of *Strafford* is the 19th Article.

That their Lordships have heard his demeanor to the Subjects of the Irish Nation; what power he exercised over their Liberties, their Properties, their Lives.

That he used His Majesties Subjects of *Scotland* in the same manner, exercising an unlawful power over their consciences, by imposing a new and unlawful Oath on such of them as lived in *Ireland*.

That the Kings Subjects of the Scottish Nation, have the same benefit of protection from His Majesty and His Laws, as his other Subjects have; since they are bound to the same Allegiance, to the same Obedience, and therefore what ought not to be done to any other of the King's Subjects, ought not to be done to them.

That a new Oath cannot be imposed, without Assent of a Parliament yet my Lord of *Strafford* is pleased to enjoin this Oath, to contrive it, to threaten them that desired to consider of it; he sends forth Commissions, to the Gentry in the Countrey to tender it, and such as refused were brought up by Pursivants and Officers to *Dublin*, and committed to Prison, and divers of them, rather than they would take this Oath, were fain to forsake their Families, their Estates, and Lands, and fly away, and were exiled the Kingdom.

That the Charge, particularly mentioning the sentencing of *Henry Stuart* his Wife, and two Daughters, and one *James Gray*, above the age of 16. who for refusing this Oath, were Fined, *Stuart* himself 5000 *l.* his Wife 3000 *l.* his Daughters 3000 *l.* apiece, and *James Gray* as much; and in their Sentence my Lord was pleased to declare himself so bitter against that Nation, and so much resolved, that this Oath should be taken by all of them (though against Law) That he publickly said, That those who refused to take the Oath, he would prosecute to the Blood.

That the Scotch Nation were Rebels and Traitors, and that if His Majesty should please to send him back to the Government of *Ireland* (he being then to come into *England*) he would root out the Scottish Nation root and Branch. And further, did declare, That this Oath thus enjoined, did bind to the Ceremonies of the Church, not only those that were establish'd, but such as were to be established: so that the Oath had some affinity with the Oath in this Kingdom, not long since.

Sir James Montgomery being Interrogated, what he knew concerning the contriving and imposing of the said Oath?

He Answered, That he was very unwilling to give any Testimony in this particular, because he knows there is a Petition for this Oath

Oath, to which Petition his hand is among others, and therefore some perchance, who doe not know the passage of the business, may think there was a discordance, and a disagreement between the Instrument under his hand, and the Testimony he must give, being put to it upon Oath, but he hopes there shall none appear when he hath spoken.

That in *April* (as he remembers) 1639. My Lord-Lieutenant, then Lord-Deputy, did write down Letters to the most part of all the Noblemen and Gentlemen of the Scottish Nation, dwelling in *Ireland*, (in the Province of *Ulster* especially) amongst whom the *Deponent* received one Letter himself, and he was required by that Letter (as the rest, whose Letters were to one effect) to repair to *Dublin*, 27 *April* as he remembers, that his Lordship might confer with them about some affairs, that did concern His Majesties special service, and therefore they were required not to fail to be there that day. That thither they came, and being come, my Lord Viscount *Mountgomery* being not well in his health, having got a cold in his journey, the said Lord Viscount sent to excuse himself to my Lord Deputy, that he was not able to come abroad for a day or two; and my Lord Deputy sent him word he would come to his Lodging, and gave warning to the rest of the Gent. to meet his Lordship there the next day at two of the clock; that there they did all come, and there were the Bishops of *Down* and *Raffo*, and some others of the Clergy; And being met, my Lord Deputy came thither and told them, he was there as their friend, to acquaint them with some things that did much concern them, and to give them his advice; He did then tell them of great disorders in *Scotland*, of great jealousies raised against them, and that they who were present, might possibly be favourers, or furtherers of those distempers; but he added, that he hoped better of them: however, that it behoved them to do something to vindicate themselves from this aspersions; and that they should offer it freely of themselves, and not stay till it were imposed by Authority. That he did insist further in his Speech, and insinuated to them, what was expected they should do, and that they should be suitors for it. That an Oath was expected according to the example of *Scotland*, as they had there joyned in a Covenant.

To this purpose he did deliver himself.

That when his Lordship had ended, the Bishops of *Raffo* and *Down*, one seconding the other, gave his Lordship thanks for his Lordships favour to them, and told his Lordship, that as those in *Scotland* had joyned together, and conspired by an unlawful Oath, so they here would joyn in a lawful oath in opposition to that, and would petition for it to his Lordship. It was seconded by the Bishop of *Down*, and some others of the Clergy there, little being spoken by others. That the Bishop of *Down* desired he might draw it, but the Lord-Deputy put it on the Bishop of *Raffo*. That some of them thought it a little too hasty, and when my Lord was risen up he (the *Deponent*) took

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on him to speak to his Lordship, and told him, the things spoken of there, were not charged against the Nation, but against the Covenanters in Scotland, and did not concern themselves: and therefore thought, under favour, that it should not be amiss to think what they should doe, before they appointed a man to draw a Petition, or to this effect.

That his Lordship was pleased to turn towards him something in choler, and to tell him; *Sir James Mountgomery, you may go home and petition or not petition if you will, but if you do not, or who doth not, or to this effect, shall do worse.* That they seeing his Lordship had resolved it should be so, there was no more said; The Bishop of *Raffo* went with the Petition in his hand to some of them, being desirous to see it, to contribute their advice to them, and somewhat suspecting this Train of the Gentry, that night again the said Bishop met with my Lord *Mountgomery*, *Sir William Stuart*, *Sir James Craig* and himself, (the Deputy) and brought two draughts of Petitions: the one indeed was down right railing, the other not very mild he thinks: howsoever, they did desire to have qualified it something in words; but the Bishop told them, it was already so cold, he was ashamed of it, and could not engross it, till he had shewed it my Lord Deputy, to know whether he would accept of it; The next morning some of them saw it with him, and took exception at some bitter words that were in it; and the Bishop said it was not to be disputed, for my Lord Deputy had seen it, and it was done with his good liking. After that it was engrossed, they met to have Signed it, and some took exceptions, that there was too great a latitude in it, and desired it might be entred, *That they should be in the case with other His Majesties Subjects*; but the Bishop said, he could alter nothing, without my Lord-Lieutenants knowledge, and he would go to my Lord with it, and to my Lord *Mountgomery*; They intreated to go along with him, and my Lord was willing these words should be added, *That it should be in equal manner and measure with other His Majesties Subjects*; so the Petition was ingrossed, and signed, and was afterwards delivered to his Lordship: That then my Lord Deputy desired them, to appoint five or six of their number to wait on his Lordship, and some of the Council the next morning, to confer concerning the Oath, and they made choice of six, the Lord *Mountgomery*, *Stuart*, and these two Bishops, *Sir William Stuart*, and himself the Deponent; when they came, his Lordship caused the Clerk of the Council to read the Oath that was to be Administred; and some other debates they had, some offered some motions, to his Lordship for some words, by way of explanation; as that they should not protest against any of His Majesties Royal Commands, and it was desired it might be explained, *By just Commands, or Commands according to Law.* My Lord did then tell them, they were not to expect any other Commands from His Majesty; the Oath was for no other intent, and needed no alteration. The Bishop of *Raffo* would have had more added, saying, The Oath was so mean, he would not come from his house to take it; and so my Lord Deputy told him, the Oath had been well consider'd of, and needs no alteration; That he the Bishop then

then desired a Copy of it, to carry to the Gentlemen that were not present, and were waiting for them at my Lord *Montgomerie's* lodging. His Lordship was pleased to deny that, but would send the Clerk of the Council, who should bring the Oath and Read it, and bring it back again, and he did so.

After this, the next day, or that afternoon, they were appointed to come to the Council-Board, and have the Oath Administred; That here they came, and my Lord himself was pleased to Administer the Oath to every one of us, two by two, or three by three. And this was the manner of Administring it.

Being Interrogated, Whether they knew the occasion of their being sent for?

He *Answered*; They knew not for what cause, nor heard any thing of it.

Being Asked, If he knew what Scotchmen were those that left the Kingdom, because they would not take this Oath?

He *Answered*, That (soon after they were dismissed in *May*) Commissions came into the Countrey to certain Commissioners, for Administring the Oath, to all of that Nation, above the Age of Sixteen; and, he believes (whether by the main Commission, or private Instructions, he cannot tell) That it was ordered, it should be Administred, both to Men and Women above that Age: And, they were all called at certain dayes by the Commissioners; some were scrupulous, and thought in their Consciences, they could not take it; others, that were satisfied in their Consciences, did take it; and those that did not take it, the Commissioners were required to certifie their Names, and Places of Residence, to my Lord Deputy and Council, that they might be proceeded against, as Contemners of His Majesties Royal Authority, according to the *Proclamation*, and *Commission*.

After the *Proclamation* had called them, some did appear, and they that did not, their names were certified, and afterward Pursivants issued to apprehend them that did not appear, or them, who on appearing, did refuse. He knows of many that fled away into *Scotland*, and very many that fled up and down in the Country, and many were apprehended by the Pursivants, and carried up, and some he thinks were Censured.

Being Asked, Whether they left their Corn on the Ground, and Goods in their Houses?

He *Answered*, That they did.

Being Asked, Whether any *Papists* of the *Scotish* Nation were sent for by Letter, or had the Oath tendered?

He *Answered*, None of them that he could hear of: and the Oath was not Administred to any of them, neither were they called.

Being

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Being Asked, If there were not diverse Scottish Papists there?

He *Answered*, Yes; diverse Gentlemen of good Quality: and he named some of them, *viz.* Sir William Hamilton, &c.

Being Asked (on the Earl of Clares motion) Whether the Refusers fled into any part of Scotland?

He *Answered*, In Truth not, to his knowledge; but they fled out of the Kingdom of Ireland.

The Oath was next Read, *viz.*

I N. do faithfully Swear, Profess, and Promise, that I will Honor and Obey my Sovereign Lord King CHARLES, and will bear Faith and true Allegiance to Him, and will defend and maintain His Regal Power and Authority; and that I will not bear Arms nor do any Rebellious or Hostile Act against Him, or Protest against any His Royal Commands, but submit my self in all due obedience hereunto: and, that I will not enter into any Covenant, Oath, or Bond of Mutual Defence, or Assistance, against all sorts of persons whatsoever; or into any Oath, Covenant, or Mutual Defence, or Assistance against any person whatsoever, by Force, without His Majesties Sovereign and Regal Authority. And I do renounce all Covenants, contrary to what I have Sworn and Promised. So help me God in Christ Jesus.

Mr. Maynard.

Whence Mr. Maynard observed, from these words, That they shall not Protest against any of His Majesties Royal Commands. That he believed all men were satisfied, that His Majesty never did, nor will Command any thing unlawful, but what a subordinate Minister may command in His Majesties Name, and publish, as His Command, in Ireland, their Lordships have heard enough of, and that may make them tender to take the Oath; besides, the Oath being new, it is conceived to be against Law.

Mr. Maxwell.

Mr. Maxwell being Sworn, and Interrogated, In what manner were Gentlemen sent for to Dublin about this matter? And what he knew in particular about it?

He *Answered*, That he was one that received a Letter from my Lord Lieutenant upon that account; and that he, as well as the rest, were required to be all at Dublin at a certain day; and, being there, and my Lord Montgomery being a little sick, and not able to go abroad, desired their excuse for a day or two. My Lord Deputy was pleased to give Command, that all that were written for, might be at my Lord Montgomeries lodging: And, at the time appointed, my Lord Lieutenant came, and at his coming he called them together, and showed the Dissenters in Scotland, and desired that they would show themselves Faithful and Loyal Subjects to their Master; and, that it behoved them, as their own desire, to Petition for it; whereupon my Lord Bishop of Down, Ross, and some others of the Clergy being there, did second my Lords Speech, and told them, That as they Rebelliously

belliously proceeded in *Scotland*, in that the *Scots* had taken in hand against the King; so they would do well by Petition, and by Oath to his Lordship and the Council, to shew their willingness towards their Masters Service: So my Lord Lieutenant was pleased to take hold of my Lord *Downs* Speech; and my Lord *Down* desired, he might be the drawer of the Petition. But my Lord perceiving him a little too vehement, told him, Smilingly, That he would recommend that to the Bishop of *Raffo*: So the Bishop of *Raffo* was appointed for the drawing up of that Petition. The next day they desired to peruse the Petition, before it went to my Lord; and, after they had perus'd it, they went in to my Lord Lieutenant with it; after he had seen the Petition, he mended something in it; and, among the rest, he remembers, the Bishop of *Raffo* told him, That my Lord had put in, *That these that were here should be of no worse condition, then the rest of His Majesties Subjects.* The next day the Petition was Ingrossed, and Signed by them, and presented to my Lord Lieutenant: afterwards there were two Noblemen, two Bishops, two Gentlemen, appointed to go to my Lord concerning the Oath, and they desired a Copy of the Oath. My Lord Lieutenant sent Sir *Paul Davies* out to my Lord *Mountgomery*, and it was Read to them all; and they were commanded to attend at the Council-Table, and my Lord gave them the Oath.

Sir *Hen. Spottewood* was offered a further Witness, but their Lordships being satisfied with what was formerly offered, spared his Examination.

And Mr. *Whitlock* observed, That they did produce these Witnesses the rather, because my Lord of *Strafford* sayes, in his Answer, they willingly came to *Dublin*, and were Suitors for the Oath. Whereas my Lord sent for them; when they were there, my Lord perswaded them; threatened them; contrived the Oath himself; altered the Petition; appointed who should draw it; which disproves what is in his Answer alleadged.

Mr. *Whitlock*.

To prove, That because diverse of the Scottish Nation were tender, and loth to take the Oath, or submit to all the Commands of my Lord of *Strafford* (though they would to the Kings) they fled the Kingdom, and left their Estates.

Sir *John Clottworthy* being examined to that particular;

Sir *John Clottworthy* Witness.

Answered, That he could speak to this particular clearly to his own Knowledge; for then my Lord was pleased to insert him as a Commissioner in the said Commission, and he was there sometimes, and beheld the Execution of it. He did likewise see the Multitude (when the Oath was generally prest on several Commands from my Lord Deputy to enforce it) did leave their Dwellings, and Habitations, their Corn on the Ground, and their Cattle, and fled away; but, whether into *Scotland*, or no, he

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he could not precisely say ; but so it was reported : but, that Multitudes went away, he knew to be certainly true.

Being Interrogated, Whether my Lord of *Strafford* did, by his *Instructions*, deny liberty to the parties to whom it was tendered, to peruse the Oath?

He *Answered*, That he cannot precisely charge himself with it, for the *Instructions* are out of the way ; but that was (as he verily remembers) part of the *Instructions*, That they should have the Oath Read over to them, but no Copies delivered to them at all.

Being Asked (on my Lord of *Strafford's* motion) Whether the *Commission* and *Instructions* were not under the hand of the Council, as well as himself?

He *Answered*, That he never saw a *Commission* under the hand of the Deputy or Council, but under the Seal ; but the *Instructions* were under the hand of Deputy and Council.

Mr. *Whitlock*,

And Mr. *Whitlock* observed, That my Lord of *Strafford* drew in the rest to himself.

Mr. *Whitlock* then proceeded to the matter of the Sentence, against *Stuart* and *Gray*, who were Imprisoned, Fined five times more than the value of their Estates ; detained in Prison a very long time, very hardly and cruelly used ; and, on this Sentence, were the words spoken by my Lord of *Strafford*, which shoves his Rancour to the Scotch Nation.

Mr. *Salmon*,
Witness.

Richard Salmon Sworn, and Interrogated, What he knew concerning the sentencing of *Stuart*, his Wife and Daughters, and *Gray* in Ireland?

He *Answered*, That on the 10th of *October*, 1639, after the Kings Attorney, Sir *George Ratcliffe*, and many other Lords and Noblemen, had given their Sentence concerning this Oath, many of them pleading to make it High-Treason ; and, that it was a merciful proceeding against Mr. *Stuart*, his Wife, and two Daughters, and *Gray*, in that Court : My Lord Primate came to shew, that if it had been against the first part of the Oath (to deny Allegiance and Supremacy to His Majesty) it had been so : but being against the second part, they were to be Judged in that Court. My Lord of *Strafford* told my Lord Primate, he was mistaken, and that the Bishop of *Derry* had said well, in that they would not Abjure all other Oathes, Bonds, Covenants whatsoever, it was as palpable High-Treason, as if it were against the first part of the Oath. Thereupon my Lord said, These people are mad : and I know not how to express myself, without going beyond my self, they have almost made me lose my self. But, says he, Mr. *Stuart*, now you have heard my Lord Primate thus much, What can you speak for your self? Mr. *Stuart* Answered, He was willing to take the first part of the Oath ; but, in

in that the Oath seemed to bind them, not onely in point of Allegiance and Supremacy, but likewise in point of Ecclesiastical Duties, therefore he durst not take it: My Lord told him again, he (the said Mr. *Stuart*) was not mistaken, but had judged right; the Oath was not only intended to bind them to Allegiance and Supremacy, for that they had other Oaths, but likewise to be obedient to the Ecclesiastical Ceremonies of the Church, either established, or that should be established by His Majesties Royal Command: and, that whosoever would be obedient to the Ecclesiastical Orders of the Church, he would lay his hand under their feet to do them good; but, whosoever would resist, he would prosecute them to the Blood.

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Being Asked (on the Earl of *Clares* motion) Whether he be a Minister?

He Answered, That he had Taught School in *Dublin*, but hath not taken Orders.

Being Asked, What other Orders my Lord of *Strafford* let fall, concerning the Scottish Nation being Rebels.

He Answered, He remembers my Lord said, They had caused him to forget himself. He said also, That they were Traitors and Rebels: and that if His Majesty would honor him so much, as to send him back again, he would eradicate root and branch even all of that Nation out of the Kingdom of *Ireland*, saving such Lords and others that had taken the Oath.

Being Asked, What Fines were Imposed on *Stuart*, and the rest?

He Answered, (To the best of his Remembrance) it was 5000 *l.* on him, 5000 *l.* on his Wife, 3000 *l.* a piece on his two Daughters, and 3000 *l.* on *James Gray*.

Being Asked, Whether they were worth these Sums?

He Answered, That it is not known to him: but he conceives *Gray* was not worth a hundred pound; for, he lived on the Maintenance of Mr. *Stuart* in the Prison; And, he knows not whether they paid any thing of the Fine or no.

But, Mr. *Whitlock* observed, That *Stuart* was fain to sell his Estate to pay his Fine.

John Loftus being Sworn, and Interrogated, Whether he was present at the Sentence against Mr. *Stuart* and the rest? And what it was?

John Loftus
Witness.

He Answered, He was in *Dublin*, when Mr. *Stuart*, his Wife, and two Daughters, and *James Gray*, were brought by the Sergeant at Armes from their House to *Dublin*, where they remained Prisoners in his Custody, and were thence carry'd one by one to Mr. Attorney, and Sworn by him; and after their Examinations ta-

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ken, were called to the Court of *Star-Chamber*, and proceeded against *Ore tenus*. At which hearing, he (the *Deponent*) was; And, after the rest of the Lords had delivered their Opinions, he heard my Lord Deputy deliver his likewise; and his in substance was; He consented in fine, to that the Lords had laid before, *viz.* 5000 *l.* on *Stuart*, 5000 *l.* on his Wife, 2000 *l.* a piece on his Daughters, and 2000 *l.* on *Gray*: and my Lord expressed himself; That he wanted termes to set forth the heinousness of this Cause; and, that he was to leave his Sword; but, if it pleased His Majesty to return him thither again, he hoped to have such, as would not Conform themselves to the discipline of the Church, rooted up Stock and Branch.

Being bid to repeat his Testimony,

He said, He Declared he was then to leave his Sword, and if His Majesty would return him thither again, such as would not conform themselves to the Government of the Church, who were of the Scottish Nation, He hoped to root them up stock and branch, or words to that effect.

Mr. Whitlock.

Mr. *Whitlock* did then Sum up the Evidence; That he conceives it proved, that my Lord of *Strafford* Contrived the Oath; sent for them of the Scotch Nation by Letter, and then wrought with them to make it their own Work, and Suit (though it was his Command) and, by threats to some of them, that did but desire to consider of it: That diverse of the Scotch Nation being tender in their Consciences to take the Oath, it being a new Oath, and tendered without *Authority of Parliament*; and so, rather than they would take it, were forced to leave their Habitations, their Corn standing, with all their Goods and Fortunes, and to flee out of the Kingdom: That Mr. *Stuart*, his Wife, and Daughters, and one *James Gray*, were Sentenced very deeply for refusing this Oath; and, that my Lord of *Strafford* declared, That this Oath extended to the Ceremonies of the Church established, and to be established; That the Scotch Nation were Rebels and Traytors, not going to any particular Man, but the Nation in General. And, that if His Majesty would send him back again to that Government, he would root them out root and branch.

This is to take a Power far above the Law; this is to bind their Consciences by an Oath, and to force them to that which they are tender of; the Execution of this with so much rigor and cruelty, shoves the strength of my Lord of *Strafford's* design to alter the Lawes, and to do it with a strong hand, with all his Force, and with all this Cruelty. And so my Lord of *straffords* Answer was expected.

Defence.

And then my Lord of *Strafford*, after a little respite, began to make his *Defence*, in substance as followeth;

E. of *Strafford*.

That almost every new Article sets forth a new Treason, that (for his part) he never heard of before: but, for this, that is now the Treason, and concerns the Administring of an Oath to such of the Scotch Nation as were in *Ireland*. He, the Defendant, besought their Lordships in the first place,

to

to take into consideration, the time when this Oath was Administred because of something else, that in the Conclusion, for his further Justification, he shall be bold to offer to their Lordships; but, he will begin with that which is matter in hand; which, though he cannot say was the true Reason, that made him first think of it; yet was a sufficient reason of it self, if there had been nothing else.

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The Proclamation for this matter he remembred was dated 20th of May, 1639, and, in what condition the Kings Affairs then stood, their Lordships, and my Lord Steward in particular, who was General, are very well able to call to mind, and what fears there were of the ill events of the things then in hand. The apprehensions were, That the Scots being a great Body in Ireland (and not so few, he is perswaded, as 100000, by reason of their nearness to their own Countreys confining upon it) might, perhaps, have Intelligence and Occurrence with their Countrymen, called, *Those of the Covenant*. And, this was the sence of all that were Ministers of that State under the King, as well *English* as *Irish*, and even those of their own Nation. Thereupon they entred into Consideration, how to secure that Kingdom, and settle things in quiet.

Besides, there was a Man afterwards Condemned of Treason, for having a Plot and Design to have seized on *Knock-fergus* Castle, and delivered it to a great Man in *Scotland* (whom my Lord said he would not name) for which he lost his life afterwards.

These particulars were confirmed by several Witnesses.

And, to prove that there was a Debate at Council-Board, for preventing of these Inconveniences, my Lord of *Strafford* desired some Privy-Counsellors of *Ireland* might be examined.

Robert Lord Dillon being Asked, Whether he and the State of *Ireland* were not very apprehensive of the danger, that might happen to the Kingdom of *Ireland*, If the *Scots* should declare themselves any way to the disquieting of that Kingdom?

Robert Lord Dillon Witness

He Answered, That about that time there were some Advertisements out of the North, of particular Meetings, and Contrivances of some Plot or other by the *Scots*, which made the State very apprehensive, that there might be danger ensuing, and that the consequence would be ill.

Being Asked, Whether there was not a course taken upon that for an Oath, to secure the quiet of the Kingdom?

He Answered, It was debated at the Board, and concluded, That it would be a great Security and Obligation on those of the Scotch Nation in *Ireland*, to keep them from Treating, or Concluding any thing together, if there should be any Invasion.

Being Asked, Whether it was not thereupon resolved, To Consult the Principal Gentry of that Nation, and to speak with them? and, Whether my Lord of *Straffords* Letters were sent in persuance thereof?

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He *Answered*, That he thought the Letters were singly subscribed by the Lord Deputy himself; but it was also with the privity of the Council.

Manwaring.

Sir Philip Manwaring being Asked to the same Point, Answered, That at the time the *Proclamation* Issued, he was in *England*, which was the 16th or 20th of *May*; But, before he came from *Ireland*, there were very many Apprehensions, that Inconveniences might arise, and many Considerations in Council, which way to prepare and prevent them.

Sir Adam Loftus
Witness.

Sir Adam Loftus being Interrogated to the same Point?

Answered, That there were at that time some Apprehensions and Fears of Danger, that might arise from the People of the Scotch Nation, in respect of their numbers there, lest they should adhere to them of the Covenant in *Scotland*, and thereby endanger the Kingdom of *Ireland* at that time: And therefore it was debated at the Council-Table, that some Oath or Bond might be made, that might divert them from joyning in the *Scotch Covenant*; and thereupon it was resolved, That the Principal Noblemen, and Gentlemen of *Scotland*, that were then in *Ireland*, should be sent for, and there dealt withal, both to express their Loyalty and Service to the Nation of *Ireland*, by their due obedience, and also to offer some Means that might be Security to the King and themselves.

And being further Interrogated, Whether my Lord of *Strafford's*, sending for these Principal Gentry of the Scotch Nation, Was not with the Privity of the Council?

He *Answered*, That he thought it was: and Added, He was very Confident it was, though the reason was not exprest in those Letters.

Maynard.

Being Asked (on Mr *Maynards* Motion) Whether he was there, when my Lord *Mountgomery*, and Sir *James Mountgomery* made Exception to the Form of the Oath contrived?

He *Answered*, He was not present at any Exceptions taken at it.

Whitlock.

Being Asked (on Mr *Whitlocks* Motion) who were those that took it so chearfully? And whether the Bishops were not more chearful then others?

He *Answered*, That indeed he observed no Reluctancy.

E. of *Strafford.*

My Lord of *Strafford* here added, That he speaks it truly (to the honor of that Nation be it spoken) the Oath was taken with much chearfulness, and not any man made scruple in the whole business, to his understanding, save only Sir *James Mountgomery*, but took it with all the readiness in the World. This is as true as he lives, and he thinks he speaks it for their honor; and, were he one of the Temporal men in that kind, he should be very unwilling

unwilling to be asked, whether the Bishops had been more ready to give Allegiance to His Majesty, than himself? and he thinks, he that asked the question, doth them a great deal of prejudice in it. Article XIX

Finding them thus prepared, he was glad of it; and they being willing to prefer such a Petition, he went to them, and served them with all willingness, as he had reason.

The Petition was cheerfully brought to him to be looked over, and to have his opinion how he liked it. It was brought him by my Lord Mountgomery Sir James Mountgomery's Brother, and some others, whom he remembers not. But these words he remembers particularly in it. *An offering of their Lives and Fortunes, for vindicating the Authority of Regal Power*, which he said was too general; and though they intended it well, might be turned too strictly on them, and therefore he desired, it might be qualified with these words, *In equal manner and measure with other His Majesties Subjects*; and the words were put in by him, as he is sure, my Lord Mountgomery would justify.

The Petition was read, and the Act of State, wherein it is recited, being in substance as followeth.

By the Lord-Deputy and Council,

WENTWORTH.

Where we have lately made an Act of Council in these words:

WHereas divers Lords Spiritual and Temporal, Knights, and others inhabiting in this Kingdom, have lately exhibited a Petition to us, in these words following.

To the Right Honourable, the Lord Deputy and Council, &c.

The Humble Petition of, &c.

The Petition recites,

The horror apprehended by the Petitioners, His Majesties Subjects of the Scottish Nation inhabiting in Ireland, for the Covenant sworn by some of their Countreymen in Scotland, without His Majesties Authority and Consent;

Their dislike therof, and their consideration, that the causes of that action may be understood, to reflect on the Petitioners, though innocent.

They crave leave to vindicate themselves from so great a Contagion, and desire his Lordship to prescribe a way by Oath or otherwise, to free themselves from these proceedings, to declare their acknowledgement of the Kings Regal Power, and their dislike of that Covenant, and of all other Covenants entred into, &c. without His Majesties Regal Authority, which they are desirous to manifest by offering their lives and fortunes, to vindicate

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dicare the honor, &c. of their Sovereign, which they are ready to do in equal manner and measure, with other His Majesties Subjects, &c. and divers names were to the said Petition subscribed.

In consideration of which Petition, we cannot but commend the wisdom of the Petitioners, which we will not fail humbly to represent to His Majesty; and for that we know many of this Kingdom, have expressed good affection to His Majesty and His Service, and dislike those disorders: We hold it fit, &c. to free them the better from the Crimes and Scandals which their Countrey-men have gone into, as also to free them from all prejudice, and to approve to the King, and to the whole world, their Allegiance to him and his Regal Power, and the dislike of that unlawful Oath and Covenant: We do therefore ordain, That all and every person of the Scotch Nation, that inhabit, or have Estates, or any Houses, Lands, Tenements, or Hereditaments within *Ireland*, shall take the Oath herein expressed on the Holy *Evangelists*, on pain of His Majesties High displeasure. The tenor of which Oath follows. &c. To several select persons, &c. Authorizing them to call before them, and administer the Oath to every person of the Scotch Nation, &c. At such time and place &c. And such Instructions as shall be in that behalf given by the Deputy and Council, &c. And to certify the names of all that take the Oath, and if any refuse to certify their Names, Quality, and Residences to the Lord Deputy, &c. And there is a Command, that all of the Scotch Nation do appear before the said Commissioners, at times by them to be appointed, and to take the said Oath before them; and that all persons may have due notice, we think fit this be published, Dated *May 1639*.

To prove a design of seizing the Castle of *Knock-Fergus*, my Lord of *Strafford* desired Mr. *Slingsby* might be examined, and being Interrogated?

Mr. *Slingsby*
Witness.

He Answered, That about the time, when it was supposed the King was in the Field of *Berwick*, there was an Advertisement from *Knock-Fergus*, that one *Trueman* had writ a Letter, for betraying of the Castle there; the party that sent the discovery was to be employed in the Letter, and he enformed, there were the hands of Twenty that should have subscribed it, the Letter was conceived to be voluntarily from *Trueman*, and not solicited out of *Scotland*.

Trueman Witness.

Trueman was sent to *Dublin* and examined, and sent back to be tryed in the Countrey, and there he received his Tryal, and was Hanged, Drawn, and Quartered.

Being asked of what Nation he was?

He says he doth not know of what Nation, but he supposes he was an Englishman.

For his further justification, he saith, at the same time there was the like Oath, and Proceeding here in *England*.

The

The Copy of which Oath now read, being affirmed by Mr. Ralton to be a true Copy.

5 June 1639. A Copy of an Oath tendered to some of the Scottish Nation, resident here in England, as it is entred in the Scottish Book, being in substance

I N. Doe faithfully swear, profess, and promise, that I will faithfully obey my Sovereign Lord King CHARLES, &c. and defend and maintain His Royal Authority; and that I will not bear Arms, nor do any rebellious Act against him, nor profess against any His Royal Commands, &c. And that I will not enter into any Covenant or Bond, &c. Of mutual Defence or Assistance against any person, &c. or into any Covenant, Bond of mutual defence or assistance whatsoever, without His Majesties Sovereign and Regal Authority. And I do renounce and abjure all Covenants, contrary to what is here sworn, professed and promised,

And he submits it to their Lordships Wisdom and Justice, what offence this had been for a Deputy of Ireland in a time thus conditioned for securing the publique peace of that Kingdom, where he serves the Crown upon such apprehensions as these, fairly without any constraint or violence offered, to endeavour by such a manner of means as this, to secure the King of the Royalty and Allegiance of His Subjects. To procure it to these ends, by these ways, at such a time, how this can be strained to be High Treason, he confesses he does not well understand; especially, since he is confirmed in that opinion, by the allowance given of it here in England, as, by the Oath read appears; And if all this had been done by him solely as Deputy, by the power of that Commission he had from His Majesty, where should be the crime that should rise so high, as to convince him of Treason? But that is not all, he hath something else to say for himself, and that is, the Kings Letter of His Majesties own Hand-writing, as followeth.

WENTWORTH,

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WENTWORTH,

Considering the great number of Scots that are in Ireland, and the dangerous consequences may follow, if they should joyn with the Covenanters in Scotland; I hold it necessary you should use your best endeavour, to try them by an Oath, not only to disclaim their Countreymens proceedings, but likewise, never to joyn with any in Covenant, or otherwise against Me, To which purpose I Command you, to frame and administer such an Oath, to the abovesaid intent, to my Scottish Subjects of that Kingdom, that I may know the well from the ill-affected of that Nation, of which fail not, as you love my Service. And so I rest, Your assured friend Ch. R.

Dated 16 Jan.

1638.

Whitehall.

So he had His Majesties Warrant, but handled the matter so, that he never discovered it.

And this he conceives doth clearly justifie him in all his proceedings. That none can administer an Oath, but by Authority of an Act of Parliament, is, as he conceived, an ignorance; And that upon a Command, and being not against Law, but intended for the better preservation of the peace of the Kingdom; a Deputy of Ireland might do it: and if he hath failed, he shall not willingly undergo any punishment, since it was an act of Obedience, and if it were to do again (being informed as he then was) he must obey, and he had rather suffer in obeying His Majesty, than dispute with His Commands in that kind,

And so he hoped, that for the Oath and Proclamation, he had said that which might acquit him before their Lordships.

Then his Lordship applyed himself to give an Answer to the other matters, brought in his Charge, and the next thing urged against him is, the Censure of Mr. Stuart, his Wife and Daughters, and Gray.

That Sentence was the very day before he came from Ireland, Michalmas was Twelve months.

To that he can say no more, but that he delivered his opinion concerning them, as the rest, in the Castle-Chamber, where the Deputy hath no more voices, than such as my Lord Keeper hath in the Star-Chamber, a Casting voice, if the voices be equal, and otherwise but a single voice; and the truth is, that the whole Court did agree in it.

And for their Fine, one of their own Witnesses sayes, That he delivered his opinion, as concurring with the rest of the Court; so that the Fines were set before it came to him to vote. And the greatness of the Fine, was only to shew the greatness of the offence, and not with respect to the persons, or with any purpose to take the Fines of the parties; for when it shall be examined, it will appear, that little of that hath been paid or looked after, for they might have had their pardon the next day, if they would have

have taken the Oath; And if he that shall refuse the Oath of Allegiance, shall instantly incur the penalty of a *Premunire*, the Fine was very moderate in this case.

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In the Oath there is nothing of Ecclesiastical businesses, but only a Temporal Allegiance, though some of the Witnesses speak of the extending it to the Ecclesiastical affairs.

My Lord Primate should have been a Witness in the Cause, but he is sick, and therefore if it may well stand with their Lordships Favour and Justice to deferr this point, till he may be examined, and heard about it.

The next thing was the words charged upon him, spoken at the same Sentence, *That the Scottish Nation were Rebels and Traitors, and that he would root them out of the Kingdom, root and branch.*

These words he absolutely denyed, and so under favour, he said, he must doe still, being well assured, he never spake them; and he is privy to his own heart so far, that he can as truly say, he never thought them. He knows very well what he owes to that Nation, as being the Native Countrey of His Majesty; and that respect, if there were nothing else, is sufficient for him to wish to it all Happiness and Prosperity, which he doth from his heart.

Besides, he knows there be many of that Nation, most Faithful and Loyal Subjects, he trusts there are few amongst them otherwise; and therefore for him to say, the whole Nation are Rebels and Traitors; certainly were a Speech of a man frantique, and out of his wits, rather than of a man in his Senses: For though he hath some infirmities, of hastiness in him, yet he is not so divested of Reason and Understanding, as to speak like a mad man, especially in things of this nature.

His Lordship repeated it, that he never spake them, never thought them, nor ever wished any thing to that Nation, but Honor and Happiness in all his life; nor hath he any manner of particular exception against them, either in general or particular. Besides, he never received personal wrong from any of that Nation; he hath received many courtesies from some of them, and therefore owes them no Animosity, but all the respects in the world.

But when it comes to the proof, that is sufficiently justified, for nothing is proved of that they charge him with, and when he hath shown the weakness of the proof offered to convince him of them, he shall offer a Witness or two, that will absolutely clear him. Nor did he speak any thing whilst he was in *Ireland*, concerning the Nation in general, but whatsoever he spake, was concerning the *Faction* in it; and it is an easie matter for a man at a distance, to mistake one word for another; and when he spoke of the *Faction* there, it was with a great deal of more moderation, and better phrase than the words charged.

For Sir James Mountgomery, he hath said little as to this matter, for he was not there, nor speaks at all, as if He (the Lord of Strafford) should have carried himself in that business, otherwise than became him; only himself confesses when Sir James would have some words put into the Oath (of *Lawful and just Commands*) He (the Earl of Strafford) said That that was needless, for they could expect no Commands from His Majesty, but what were lawful and just, and such is the Wisdom and Justice of the King as he dares say they will always be so; and the words of the Oath are, *They shall be so far complying with these Commands, as in due obedience they are bound and obliged to be.* So it was not *Caca obedientia*. Sir James says,

O o o

That

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That he (the Earl of *Strafford*) did administer the Oath. This one single Testimony; but to tell their Lordships plainly the truth, he confesses he did give that Oath, being not only obliged by the Council, but they directing him, and that the Petition was not got forcibly from them, it appears evidently, for there is nothing against it.

Sir *John Clotworthy* sayes, That on this Oath administred, great multitudes went away, but he names not one of that multitude, and if they did go, who could help it? If they would go away, rather than give such a pledge of their Allegiance, he should have been loth to have restrained them, to make them stay against their Wills.

For the Instructions that went with the Commissions, Sir *John Clotworthy* very truly says, they were under the hands of himself and all the Council, but what these Instructions were, he cannot expressly say; and that, under favour, he conceives is no witness, and so is no Charge on him.

But to expresse his rancor against the Scottish Nation, next come the words proved by *Richard Salmon* the Schoolmaster, and he swears positively and directly, that he (my Lord of *Strafford*) spake these words the 10th of *October* 1639. The plain truth is, that he (the Earl of *Strafford*) was come into *England* in *September* before; and if that man shall notwithstanding, undertake positively to swear that individual day, he is less to be credited. The said time of his coming into *England* was confirmed by two Witnesses.

*Little, Wit-
ness.*

Mr. *Thomas Little* being (upon my Lord of *Strafford's* motion) asked, about the time of my Lord of *Strafford's* coming from *Ireland*.

He Answered, That my Lord Lieutenant came from *Ireland*, Thursday 12 Sept. 1639. and landed the next day, and came to *London* 21 Sept, 1639.

Ralton.

Mr. *Ralton* being examined to the same point.

Answered, He very well remembered my Lord came to *London* 21 Sept. 1639.

For the words themselves, *That the Scotch Nation are Rebels and Traitors, and that he will root them out Root and Branch*, the Witness is a single Testimony; their Lordships see how true he is in the first part of it, and he is equally true in the second.

The other Testimony is one *John Loftus*, and he sayes my Lord of *Strafford* wanted terms to expresse the heinousness of that offence, and he hoped to have such of the Scotch Nation, as would not submit to the Ecclesiastical Government, rooted out Stock and Branch from that Kingdom. And this (said my Lord) is quite another thing, and no way agreeing with the former, but nearer the truth, and far from rooting out the Scotch Nation; for there are but few that submit not to the English Church-Government.

So there is left only one single Testimony of the Schoolmaster, that hath not learned his Lesson perfectly, but is taken tardy, as if he were a Scholar; and the other makes it quite another business: And as they have offered these things, and have not proved them, by more than one single testimony, and he a very infirm one, He, my Lord of *Strafford*, besought their Lordships

Lordships that he might call for a Witness or two, that were there, and heard all that passed,

Sir Philip Manwaring (my Lord said) was a Judge of the Court, and nearer him than the Witness, and likely to hear more distinctly :

Sir Philip being asked what the words were, and of what nature they were, whether they were not restrained to the *Faction* of the Covenanters, and them that would not take the Oath in *Ireland*, and not the Nation it self?

He *Answered*, That he was present that day, and sat within the Court and within hearing, so that he heard every word that fell from my Lord Deputy : it is true, his Speech there was very long, but he shall repeat no more of it, than that he conceives pertinent to the present occasion, that is, Whether he should say these words, *Against the whole Nation*, or speak only to the *Faction*, and properly, and pertinently, shun the word *Nation*. It was on the occasion of Mr. *Stuart*, who stood at the Bar with his Wife and Daughters, and *Gray* ; My Lord telling him he was sorry, that bearing the name he did, he should be the only man that carried himself with that disobedience, and my Lord expatiated very much, and in conclusion said,

That Scottish Nation (with respect I speak of it) for I know there be among them gallant and worthy persons, and I have great experience of them, and of the Loyalty and Faith they bear to their Sovereign ; but there is a *Faction* amongst them, which I shall endeavour, as near as I can, to bring to that obedience, at least, to keep them that are within this Kingdom, to that Obedience, Loyalty, and Duty, that Subjects ought to bear.

Being asked, Whether my Lord did not express himself at that time, that he would not take on him to judge any thing of the Action in *Scotland*, not knowing the Law of that Kingdom ; but such of that Nation, as are here in *Ireland* ; if they will not submit to the Government of *Ireland*, he will do the best he can, they shall not stay here ?

He *Answered*, That it is very true, my Lord Deputy did at that time speak to that purpose, as near as he can remember in truth (*viz.*) That he did not know the Laws nor Customs of that Kingdom ; therefore would say nothing to them ; but for so much as concern'd the Kingdom of *Ireland*, and the keeping of the King's Subjects in Loyalty and Obedience there, he would do his best to preserve that.

Being asked (on Mr. *Glyn's* motion) whether he heard these words *Root and Branch*, or *Stock and Branch* ?

He *Answered*, In truth he did not.

Robert Lord Dillon being asked to the words spoken by my Lord of *Strafford* in the *Castle-Chamber* at the Sentence, and how he expressed himself concerning the Nation of *Scotland* ?

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Sir Philip
Manwaring
Witness.

Robert Lord
Dillon Wit-
ness.

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Sir Adam
Loftus Wit-
ness.

He *Answered*, That he confesses, it hath been his custom (and it may be it is an ill one) never to mind words spoken in the place, unless he supposes he shall be called to account for them: he remembers my Lord spake of the refusing of the Oath, and of some rigor to them that should refuse it, but for particular words, he remembers not.

Sir *Adam Loftus* being asked what he heard of these words?

He *Answered*, That he was at the Censure, but truly he cannot burden his memory with any the words that tend to this question; It was a great while agoe, and he little thought they should come to any recapitulation of them, and in truth he doth not remember them.

Being asked whether *Stuart's* Sentence was not given by the unanimous Vote of the whole Council?

He *Answered*, Indeed he believes it was.

Sir *Philip Manwaring* being asked, what he heard the Master of the *Rolls* say that day?

Sir *Philip*
Manwaring.
Witness.

He *Answered*, That coming from the *Castle-Chamber*, waiting on my Lord Deputy to the *Castle*, where many Dined, and all that had been Judges; and Mr. *Wainsford*, the Master of the *Rolls*, took occasion to speak to my Lord Deputy, in his (the said Sir *Philips*) hearing, and commended him for carrying himself with that caution, that he had no way reflected on the Nation, but the *Faction* in that Kingdom, and had shunned the words, which might reflect on the Nation.

And so his Lordship concluded his Defence, and said, he hoped that there was nothing proved that should touch him so deeply as Treason; for if the obeying of the Commands of this Case be so great a crime, he must confess, if it were to do again (being not better informed by wiser men, tho hereafter he may be better informed, and prevent it) he should be that Traitor over again, and do the self-same thing again: and therefore if he had done it out of ignorance, he hopes their Lordships will not look on him as having any evil intention or wicked purpose, but to serve His Majesty with faithfulness, which he hopes will procure an easier judgement from their Lordships, than to think of a High Treason in this Article.

Whitlock's.
Reply,

And then Mr. *Whitlock* made Reply thereunto, in substance as followeth.

That in his Answer to my Lord of *Strafford's* Defence, he shall begin with that, which his Lordship was pleased to mention last, and also at the beginning, *That this should not be accounted Treason, he knows not the Illegality of it, and if it were to be done again, he would do it on that Command.* Whence Mr. *Whitlock* observed, that his slighting, or rather justifying of this offence, when he is told in this great Presence, that it is against

against Law, and will be made good, and appear to be against Law, is a great aggravation of the offence.

It is well known, that a new Oath cannot be Imposed without Assent in Parliament. It is *legislativa potestas*; The Oath of Allegiance is as ancient as our allegiance, and nothing needed to have been added to that: and, had it been tendered to them, as it might have been by Law, this would have performed the Kings Command, which, under favour, went no farther, and would have been sufficient security of what was doubted and feared: But, my Lord of *Strafford* will go farther; the Oath that the Law enjoins doth not please him, he must have a new one framed by himself, and published by his Authority, thereby to make his Authority equal to an Act of Parliament.

'Tis indeed believed, there were some apprehensions of dangers in *Ireland*, by the great number of the *Scots* there, and a Covenant in *Scotland* then Sworn, but that Covenant is not to be medled withal now. The Charge enforced against my Lord of *Strafford*, is not his Care of preventing danger to the Kingdom, but that he caused a new and unusual Oath to be Imposed; and particularly, that they should submit to all the Kings Royal Commands.

The Committee confes, and think, no man had ever yet a heart to doubt, That the King would command any thing that should be against Law: But, it hath been sufficiently proved, that my Lord of *Strafford* (a Subordinate Minister under the King) hath published his own Commands in the Kings Name, which are not Justifiable, nor according to Law: And that, under favour, might be a good cause for the Scots, to be tender of taking his Oath; knowing, that these Commands here, were not His Majesties Immediate Commands, but the Commands of my Lord of *Strafford*, which they saw many times so unlawful and exorbitant.

My Lord of *Strafford* hath produced diverse Witnesses, to prove, It was Debated on at Council-Board; And, that the *Scots* did chearfully take the Oath: but, in this, he hath laboured to disprove his own Answer, which is, That the Scots came up, and desired to have an Oath; whereas it appears, the Council-Table thought fit to send for them by Letters, under his Lordships hand; and it was propounded to them to take such an Oath.

He sayes, himself put these words into the Petition; *In equal manner and measure with other His Majesties Subjects*: Which shoves, That my Lord of *Strafford* himself had the Perusal and Correction of this Petition, which is a good Proof, that he contrived the Oath.

The Petition doth only beseech my Lord Deputy, That an Oath might be framed to vindicate themselves from the *Faction* of their Countrymen, and the *Covenant*, which they might have done by the Legal Oath, the Oath of Allegiance. But he put something in above what they desired, and that was, for submission to all the Kings Royal Commands: which may extend to Liberty, to Property of Goods, and so is a great deal further, than His Majesty was pleased to Command by His Letter, wherein there was nothing but what was very fit to be commanded by my Lord of *Strafford*, and very fit for him to obey.

And, What if my Lord of *Strafford* should procure a Letter from His Majesty to do that, which is not warrantable by Law? the Kings considerations are far above the particular Points of the Municipal Law of this Kingdom; He cannot know them, but is to be enformed of them by His Ministers:

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Ministers : Now, if my Lord of *Strafford* shall misinforme Him, and desire to have that by His Authority, which is not warrantable by Law, the fault is my Lord of *Straffords*; and, it much aggravates the Crime; but, the Kings Letter doth not warrant my Lord of *Strafford*, for he hath proceeded further.

He sayes, concerning the Censure of Mr. *Stuart*, That he delivered his Opinion among the rest: but, their Lordships may remember, he went as high as to charge him with Treason. It is true, the Bishop of *Derry* conceived it might be Treason; And, the Primate said, The Denial of the former part might be Treason, but not the latter: but, my Lord of *Strafford* conceived the latter part to be Treason too: And therefore, surely, his Opinion had more harshness and severity then the rest; and, being his Opinion, it was of sufficient weight to carry along with him all the rest: and, that which was his own Act at the beginning, which he Contrived and Treated with the Scotch Lords and Gentlemen, That he peruses in his Sentence; and, if others joyn with him in a hard Sentence against Law, his fault is not the less, but rather the greater, to draw others into the same fault.

His Lordship says little of the *Fine* that is paid. It is true, it cannot be proved how much was paid; but, those that were Fined continued in Prison till very lately, for that Fine.

And, whereas he sayes, Any, taking the Oath, might have been Released the next day. It is the more Cruelly done, to keep them in Prison till they take an Oath, who cannot satisfie their Consciences, that they may take it.

My Lord sayes, If one refuse the Oath of Allegiance in this Kingdom, he shall incur a *Premunire*, and this Sentence was more moderate. Indeed, if that had been tendered, they had incurred the like sentence, and that might serve the turn; but, my Lord must stretch his power higher, and above the Law; He would frame a new Law; and, for not observing that, a new Punishment too.

He sayes, There is nothing of the Ecclesiastical Discipline in the Oath: but, the Witnesses expresse it, that my Lord interpreted it, to extend to the observation of the Ceremonies, and Government of the Church established, and to be established.

His denial to speak the words, *That he would root out the Scotch Nation*, doth not disprove that, which is so clearly and strongly proved by two Witnesses.

He sayes, He should be Frantick, if he should speak such words: but one of the Witnesses said, He exprest himself to be transported, and that he knew not what he said in that Sentence.

He sayes, He never received wrong from that Nation, but Curtesies, then those words show the more Ingratitude.

He

He says, Sir *James Mountgomery* speaks nothing that sticks on him : It is true, he speaks only to the Contravening of the Oath ; but, he shows that to be expressly otherwise, then in my Lords Answer.

He confesses he gave the Oath : but, whether he did or no, his Authority Injoyning of it, would have been all one.

He says, Sir *James Mountgomery* desired the words, *Just and Lawful Commands*, might be added : and, that my Lord expounded it, No other were intended. But then there was the less reason to deny the inserting some of them, for their sakes that were tender, and desired to have them put in, for their satisfaction.

He says, That Sir *John Clotworthy* deposes, That Multitudes of the Scotch Nation went away ; but, he names none : But, if Sir *John* be Asked, he will give very good satisfaction.

Sir *John Clotworthy* being Asked to that Point ?

He Answered, That he might easily, amongst so great a Multitude, Remember so few names ; and when he heard my Lord of *Straffords* Exception, Multitudes did throng in upon him, whereof he did now particularly name about six, and said, He could name a great many more.

Being Asked, concerning the Execution of *Trueman*, as a Traytor, for the matter of *Knockfergus* ?

He Answered, That he was at *Knockfergus* at the Assizes, when this Trial was concerning this *Trueman* ; and was then on the Bench, and heard all the passages of the business ; whereof he made this brief Relation as followeth.

This *Trueman* was an Englishman, that dwelt not far from *Knockfergus*, and one that was sent about the Country ; but, by whom, Sir *John* could not tell : but, there were vehement suspicions, that he was Employed to find out those that would engage in Discourse concerning the Scotch business ; he spake with one Captain *Giles*, who feigned himself a great Friend of the Scotch Nation ; and said, That he conceived they were greatly distressed ; and wished, that he could use means whereby they might be eased. Hence he discoursed with *Trueman*, who was but a silly Man, and got from him words, whereby he discovered a good will to the Scotch Nation ; and some discourse about the Castle of *Knockfergus* ; insomuch, that he got *Truemans* Letter to recommend him into Scotland, whether he pretended a desire to go, to serve under that Command : Upon this he produced the Letter, and that was given in Evidence against him, and so he was Condemned and Executed.

Mr. *Whitlock* proceeded, and said ; My Lord alledgeth for his Justification, another Oath, enjoined here to the Scots, by the Authority of the Council-Board ; but, this gives no Countenance to that in Ireland ; for the

Mr. *Whitlock*.

Article XIX.

the Oath enjoyn'd, there was another after that, enjoyned by my Lord of *Strafford*: therefore that which came first, can receive no colour from that which came last. And the Oath here being the same (as near as we can remember) with that in *Ireland*, was rather a Precedent for this. Howsoever, the Committee never heard that the Oath here, was executed, or enjoyned to any.

Though *Richard Salmon* was mistaken, in point of time, of speaking those words of the Scotch Nation at the Sentence; yet, he speaks to the substance and matter of the Sentence and Words, and it was when my Lord of *Strafford* was in *Ireland*: and though the name of the Month be mistaken, it cannot weaken his Testimony; and my Lord of *Strafford* confesses he was at the Sentence, and the day before he came to *England*.

And, with him, concurs *Loftus*, though not in Words, yet in Substance.

My Lord produced Witnesses concerning these words. Sir *Philip Mawaring* affirms, my Lord said, He was very sorry *Stuart* should be the only Man: yet, it is proved, that diverse were brought to *Dublin*, and Imprisoned there; and many hundreds forsook the Kingdom, and left their Estates; therefore he could not be the onely man. But, though he and the rest remember not the words, yet if the Witnesses produced do precisely remember them, the forgetfulness of my Lord of *Strafford*'s Witness shall not at all Impeach the other.

So the Committee concluded thus; That it stands clear, that my Lord of *Strafford* hath assumed a power to himself above Law, to Administer an Oath contrary to Law; a new Oath, to bind Mens Consciences with great severity. He said formerly, He would make an Act of State equal to an Act of Parliament, and nothing can make an Oath but an Act of Parliament; in this therefore he is as good as his word. This is an assuming of a Power above Royal-Power; for an Act of Parliament cannot be made, without the Three Estates, their Lordships and the Commons are Interested in it; for, this is not ——— *Penes Potestatem ministri*.

Mr. Maynard.

Mr. *Maynard* added, That some Exceptions had been taken against Sir *James Mountgomery*, viz. That he was scrupulous to the Petition, but not to the Oath.

My Lord of *Strafford* takes a Power to Administer an Oath. It is hard to lay such Bonds on any; but, to put it on general and ambiguous words, is much harder: And, how far that may intrench on any Man, if for refusing such an Oath he shall be Sentenced in the *Star-Chamber*, more then he is ever able to pay, and more than my Lord of *Strafford* confesses he would expect payment of; this is so transcendent an Incroachment, that there cannot be a greater: for, it takes away Liberty of Conscience, and endangers the whole Estate. And, the Kings Letter doth not justify the proceeding at all: for, had my Lord pursued that, and gone no farther, there had been no Complaint; for His Majesty enjoyned him to take an Oath, that might distinguish one from another; but, doth not enjoyn to punish them that refused it: the Grievance is the Coertion of it; and so, under favour, It is no Justification.

Mr. Stroud

Article XIX

Mr. Stronde added, That my Lord of *Strafford*, at the end of his Speech, said, If this were Treason, and the Occasion offered, he would be ready to do it again. And Mr. Stronde said, He must confess he doth believe him; and, this makes him consider a heavy thing that once befel this Kingdom; When *Gaveston* came to over-act his bold offences, how heavy that befel the Kingdom, he leaves to their Lordships Consideration.

Stroud.

My Lord of *Strafford* desired to clear this Point; and said, The Gentlemen is a great way off him, and may easily mistake; For he said, *Were it again to do, being no better informed then he was at that time, he should do it: But now he understands more than he understood before.* But, Mr. Stroud Answered, That under-favour he did not mistake my Lord; for, he remembered, how fierce my Lord was upon an Oath in the Case of the Loane when he was a Commoner.

E. of *Strafford*.

Stroud.

My Lord of *Strafford* did here desire a Motion or two:

The *First* Importing, That he should be very unwilling any thing should befall him, that might be a Prejudice to the Peerage of the Realm; and, out of the duty he owes to that, he might crave leave humbly to inform their Lordships, That he hath a great Family in *Ireland*; his Wife and Children are there; that all he hath is seized on: So that he hath not, as he protested (but as he borrowes it) Money to buy Meat to feed himself here: And, how his Wife and Children, and Servants do in *Ireland*, he knows not; but, that they are under the Providence of Almighty God. That it is a heavy Case, that being Impeached of Treason (and Constructive Treason, he hopes, it will prove at the most) that he should be thus used, being a Peer of the Realm, to have all he hath taken in this sort, and his Wife and Children, and Family thus unprovided for, and left without so much means as to feed themselves: he therefore besought their Lordships to take him into Consideration, that he may not be worse than the meanest sort of people, having the honor to be a Peer, under the pretence of Treason.

E. of *Strafford*.

The *Second* was, That, since my Lord-Keeper, and my Lord of *Northumberland* may be very good Witnesses for him in the subsequent Charge, that will next come before their Lordships: And, whether my Lord *Cottingham* be in disposition to be here on Monday, He knows not; that therefore some course might be afforded, that he might have the benefit of their Testimony, when he shall come to Answer the next Charges.

Being demanded by the Lord *Steward*, By whom his Goods were seized? and, Whether by the Orders of the House of Commons Read the other day, that their Lordships might clearly understand him? His Lordship answered, Yes: From whence Sir *John Clotworthy* observed, That, by these Orders, nothing could be Inferred, but a Sequestration of the advantage, that might possibly be had by the *Tobacco*; And, that his Lordship had a fair Estate in *Ireland* of _____
per Annum acquired, since he came into *Ireland*, which is not at all touched.

To which my Lord of *Strafford* replied, That he had a Thousand a Year in *Ireland*, and that was all: And, he had Two hundred and sixty

Article XIX in Family; and, how those can be maintained (All the Customs being seized, and a little Money he had, having but narrowly escaped) he desired their Lordships to take it into their Consideration.

For these Particulars, his Lordship had direction to Petition to their Lordships; And so the House was Adjourned, and Monday morning next appointed to proceed about the *ARTICLES*.

The Council for the House of Commons having proceeded against the Earl of Strafford Article by Article, till they came to Article 20, but then finding the following Articles so nearly related to one another, they would tie themselves no more to these Rules; but, pleaded for Liberty, to handle them, not as they lay, but as they were Related to one another: And, after my Lord Strafford had long and vigorously opposed this, my Lord High Steward Determined the Case, and Ordered, They should be handled promiscuously, and in cumulo, as the Council for the Commons-House should think fit. Therefore I have set down these Articles that were thus Debated here.

T H E

THE Twentieth Article.

The Charge,

20. **T**hat the said Earl hath, in the Fifteenth and Sixteenth years of his Majesties Reign, and divers years past, laboured and endeavoured to breed in his Majesty an ill Opinion of his Subjects: namely of those of the Scotch Nation. And diverse and sundry times, and especially since the Pacification made by his Majesty with his said Subjects of Scotland in Summer, in the Fifteenth year of his Majesties Reign: he, the said Earl, did labour, and endeavour to persuade, incite, and provoke his Majesty to an Offensive War against his said Subjects of the Scotch Nation: And the said Earl, by his Counsellors, Agents, and Endeavourers, hath been, and is, a principal and chief incendiary of the War and Discord between his Majesty and his Subjects of England, and the said Subjects of Scotland, and hath declared and advised his Majesty, that the Demands made by the Scots, in their Parliament, were a sufficient cause of War against them.

The said Earl having formerly expressed the height and rancour of his Mind towards his Majesties Subjects of the Scotch Nation, viz. the Tenth day of October, in the Fifteenth year of his Majesties Reign, he said, That the Nation of the Scots were Rebels, and Traytors: and he being then about to come to England, he then further said, That if it pleased his Majesty (meaning his Majesty) to send him back again, he would root out of the said Kingdom (meaning the said Kingdom of Ireland) the Scotch Nation, both root and branch.

Some Lords and others, who had taken the said Oath in the precedent Article, onely excepted: and the said Earl hath caused diverse of the Ships and Goods of the Scots to be stayed, seized, and molested, to the intent to set on the said War.

Article XX.

Charge.

Article XX.

Charge.

T H E

One and Twentieth

Article.

The Charge.

ArticleXXI.
Charge.

ArticleXXI.
Charge.

21. That the said Earl of Strafford, shortly after his Speeches, mentioned in the last Precedent Articles, to wit, in the fifteenth year of his Majesties Reign, came into this Realm of England, and was made Lord Lieutenant of Ireland, and continued his Government of that Kingdom by a Deputy: at his arrival here, finding that his Majesty, with much wisdom and goodness, had composed the Troubles in the North, and had a Pacification with his Subjects of Scotland; he laboured, by all means, to procure his Majesty to break that Pacification, incensing his Majesty against his Subjects of that Kingdom, and the Proceeding of the Parliament there.

And having incited his Majesty to an Offensive War against his Subjects of Scotland by Sea and Land, and by pretext thereof to raise Taxes for the maintenance of that War, he compelled his Majesty to call a Parliament in England: yet the said Earl intended, that if the said Proceedings of that Parliament should not be such, as would stand with the said Earl of Straffords mischievous Designs, he would then procure his Majesty to break the same; and, by ways of Force and Power, to raise Monies upon the Subjects of this Kingdom. And, for the encouragement of his Majesty to hearken to his advice, he did, before his Majesty and Privy-Council, then sitting in Council, make a large Declaration, That he would serve his Majesty in any other way, in case the Parliament should not supply him.

T H E

T H E

Two and Twentieth Article.

The Charge.

Article XXII
Charge.

That in the month of March, before the beginning of the last Parliament, the said Earl of Strafford went into Ireland, and procured the Parliament of that Kingdom, to declare their assistance in a War against the Scots: and gave directions for the raising of an Army there, consisting of 8000 Foot, and 1000 Horse, being for the most part English as aforesaid. And confederating with one Sir George Ratcliffe, did together with him the said Sir George, traitorously conspire to employ the said Army, for the ruine and destruction of the Kingdom of England, and of his Majesty's Subjects, and of altering and subverting of the fundamentall Laws, and established Government, of this Kingdom.

And shortly after, the said Earl of Strafford returned into England, and to sundry persons, declared his opinion to be, That His Majesty should first try the Parliament here, and if that did not supply him, according to his occasions, he might use then His Prerogative as he pleased, to levy what he needed: and that he should be acquitted both of God and Men, if he took some other courses to supply himself, though it were against the Wills of His Subjects.

T H E

THE

Three and Twentieth Article.

The Charge.

Artic. XXIII

Charge.

23. **T**hat upon the Thirteenth day of April last, the Parliament of England, here, and the Commons House (then being the representative Body of all the Commons in the Kingdom) did according to the Trust reposed in them, enter into Debate and Consideration of the great grievances of this Kingdom, both in respect of Religion, and the publique Liberty of the Kingdom, and His Majesty referring chiefly to the said Earl of Strafford, and the Archbishop of Canterbury, the ordering and disposing of all matters concerning the Parliament: He the said Earl of Strafford, with the assistance of the said Archbishop, did procure His Majesty by sundry Speeches and Petitions, to urge the said Commons House, to enter into some resolution for His Majesties Supply, for maintenance of His Majesty against his Subjects of Scotland before any course taken for the relief of the great and pressing Grievances, wherewith this Kingdom was then afflicted. Whereupon a demand was then made from His Majesty of 12 Subsidies, for the release of Ship money only; and while the said Commons then Assembled (with expression of great affection to His Majesty, and His Service) were in Debate and Consideration concerning some Supply, before any resolution by them made, He the said Earl of Strafford, with the help and assistance of the said Archbishop, did procure His Majesty to dissolve the said Parliament, upon the 5th day of May last; and upon the same day, the said Earl of Strafford did treacherously, falsely and maliciously, endeavour to incense His Majesty against His loving and faithful Subjects, who had been Members of the said House of Commons, by telling His Majesty they had denyed to supply Him. And afterwards upon the same day, did traitterously and wickedly counsel and advise His Majesty to this effect, viz. That having tryed the affections of His People, He was loose and absolved from all rules of Government, and that he was to do every thing that Power would admit; and that His Majesty had tryed all ways, and was refused, and should be acquitted towards God and Man; and that He had an Army in Ireland (meaning the Army above-mentioned, consisting of Papists, his Dependents, as is aforesaid) which he might imploy to reduce this Kingdom.

THE

T H E

Four and Twentieth Article.

The Charge.

24. **T**hat in the same month of May, he the said Earl of Strafford, falsely, traiterously, and maliciously, published and declared before others of His Majesties Privy Council, That the Parliament of England had forsaken the King, and that in denying to supply the King, they had given him advantage to supply himself by other wayes; and several other times he did maliciously, wickedly, and falsely, publish, and declare, That seeing the Parliament had refused to supply His Majesty in the ordinary and usual way, the King might provide for the Kingdom in such wayes, as he should hold fit, and that he was not to suffer himself to be mastered by the forwardness and undutifulness of the people: And having so maliciously slandered the said late House of Commons, he did, with the help and advice of the said Archbishop of Canterbury, and the Lord Finch, late Lord Keeper of the Great Seal of England, cause to be printed and published in His Majesties Name, a false and scandalous Book, Entituled, His Majesties Declaration of the Causes that moved him to Dissolve the last Parliament, Full of bitter and malicious Invectives, and false, and scandalous aspersions against the said House of Commons.

Art. XXIV.

Charge.

Monday

Article XIX

H H T

Monday, April 5. 1641.

L. High Steward.

TH E Right Honourable the Lord Steward did this day in the first place, acquaint the Gentlemen that managed the Evidence at the Bar, That their Lordships had commanded him to let them know, that my Lord of *Strafford* on Saturday in the evening, gave in his Petition for the examination of my Lord of *Northumberland*; and that he coming in so late, it happened so, that the Gentlemen of the House of Commons could not possibly have leave to cross examine, and so the examinations are come only on one side, sealed up; wherefore his Lordship proposed, that things might for the present be so carried, as the proceedings of this day might not be hindered thereby.

Whitlock.

Mr. *Whitlock* Answered, That they shall go on according to their Lordships Order, but he desired the cross-examination of my Lord of *Northumberland*, and the Testimony of some other witnesses that are sent for, and not yet come (whose names they shall give in) may be reserved.

E. of *Strafford*.

To which my Lord of *Strafford* replied, That the motion is very new to him, and in these things of form, he may be easily mistaken, and prejudiced before he is aware: That to their cross-examining of my Lord of *Northumberland*, he is very willing; but for examining of Witnesses, whose Names are not yet known, and to have such a Latitude as to reserve supplemental proof, he conceives may be hard, and so appeals to their Lordships, whither their Lordships will not have them name their Witnesses, and assigne them a certain time, within which they shall examine them. And he desires likewise, the examination of my Lord Keeper, who is not yet examined, may be reserved for him. And likewise that my Lord of *Canterbury* may be examined, he having been examined, (as be understood) against him, which if he had not been, he should not have moved it: and that the advantage of their two Testimonies may be reserved to him.

Whitlock,
Maynard.

But Mr. *Whitlock* and Mr. *Maynard* thus explained it, that they intend not to examine those who are not yet named in writing, but to produce them *viva voce*; and that they should take the boldness to name one of them to their Lordships, and that is Mr. Sergeant *Glanville*, who was sent for eight days since, and will be in Town to night, And for my Lord of *Canterbury*, if they have examined him, it was before his Charge, and they shall make no use of his examination, neither is he a person capable of being a Witness, being now charged, and in some particulars, for conspiring with the Lords at the Bar, and therefore they submit it, whether it be convenient he should be examined, though if they shall urge his Testimony, it will be something; and likewise their Lordships over-ruled it in Sir *George Ratcliff's* Case. But my Lord of *Strafford* submitting all to their Lordships good pleasure, it being his part only to move (as his Lordship said) and

and do what their Lordships should in their wisdoms think fit. The Lord Steward declared their Lordships pleasure, that Sergeant *Glanvill* and the other Witnesses might be reserved to be heard to morrow *viva voce*; and that the examinations of my Lord of *Northumberland*, and my Lord Keeper might be likewise reserved; for my Lord of *Canterbury* it was observed, that he was examined before the Charge, and that the Gent. of the Commons-House intend not to make use of his Testimony. And so the Committee proceeded to the next Article.

Article XX.

L. H. Steward.

Mr. *Whitlock* proceeded, putting their Lordships in mind, that they had been pleased to take a view of my Lord of *Strafford's* Courses in *Ireland*, which have manifested his designe to subvert and change the Law and bring in an Arbitrary Government; That his execution of that Arbitrary Power upon the persons, Estates and Lives of the Kings Subjects there, hath been a clear proof of this his designe. They shall now proceed to show their Lordships what his designe was in *England* and *Scotland*, as the same was set forth in the 20th, 21, 22, 23, and 24th Articles, together with the matters contained in them, they being interwoven and depending one upon the other, and so are but one business.

Mr. Whitlock.

My Lord of *Strafford* did thereupon offer, that he conceived it was agreed, they should go Article by Article, that his Memory is short, and his Abilities weak; and if three or four be brought together, his Memory will not serve him to give them that account, that otherwise he should be able to do; And since the order of proceeding Article by Article was by consent, he besought that course might be pursued, not giving consent to the alteration of it.

E. of Strafford.

But Mr. *Maynard* desired leave to remember their Lordships, that they offered to go Article by Article, till they came to some that were woven together, which might change the course. They find much time is lost between Article and Article, and there will need no great Consideration of of these, being only about words; and when my Lord of *Strafford* stands by way of Defence, he may not inform them which way to proceed, and they will proceed no way differently from what was formerly proposed.

Mr. Maynard.

My Lord of *Strafford* humbly appealed to their Lordships, Whether the Favour offered him for recollecting his Notes, had spent much time; and added, perhaps if another man had been in his case, he would have thought as long a time as he had taken, necessary, tho a far abler man than himself; but this inverts the whole Order agreed on, and brings him to a great inconvenience, and therefore he desired he might Answer them single, in the manner as was agreed upon.

E. of Strafford.

To which Mr. *Whitlock* Answered, That if the Articles be not proceeded in together, and as having relation to one another, they will loose much of the Application, Evidence, and Proof; and he conceives will be more easie to my Lord of *Strafford*: And for the Order mentioned, there was, under favour, no order in it; but when my Lord of *Strafford* made the motion (Mr. *Whitlock* said) he took the boldness to inform their Lordships, that he should proceed on some of them altogether,

Mr. Whitlock.

Article XX.

which my Lord of *Strafford* did not deny, and their Lordships approved of, and according to that they desire to proceed.

Mr. Glyn.

Mr. *Glyn* adding, That he never knew before this time, a Prisoner at the Barr prescribe a Method to the Evidence, especially if he be charged with High Treason; and my Lord may afford them the same favour they do him, for if he will answer *Article* by *Article*, he may; but as they leave him to his course, so they desire to take their course.

E. of *Strafford*

But in that case my Lord of *Strafford* desired he might have time to Answer till to morrow morning, and professed that he should be extream unwilling to offer any thing that became him not in Humility and Modesty, or to prescribe a course to any, he being in his condition; but he trusts he may with Humility and Duty, offer to their Lordships consideration, these things that may be for his Assistance and Defence, without offence to any.

So the Committee that managed the Evidence for the Commons-House, had direction to proceed as they had propounded.

Mr. *Whitlock*.

Mr. *Whitlock* then proceeded to open the Charge of these *Articles*, which will refer, to prove a designe of my Lord of *Strafford* against *Scotland*, to subvert their Parliament, and our Government here, and to bring in an Army on us, to force us to submit to an Arbitrary Power.

First, they shall apply themselves to prove his designe against *Scotland*, which lies first in the Charge; That he advised the King two or three times, that the demands made by the Scots in their Parliament, were a sufficient ground for a Warr against them, notwithstanding that Parliament was indicted by the Kings Royal Authority, and they have their liberty to Propound and Treat.

Your Lordships may remember what my Lord of *Strafford* said at the sentencing of *Stewart* in *Ireland*, whereby he expressed his hatred and rancor towards them, and his opinion of them at that time, being after the pacification made, and he continues in the same ill opinion of them, and to give the same ill Council.

That at another time he told His Majesty, the demands of the Scots in their Parliament, were not matter of Religion; but struck at the root of Government, and that it was fit to punish them by force.

That he caused the Ships of the Scots in *Ireland* to be seized.

That he procured the Parliament in *Ireland* to declare their assistance, and give supply for a Warr against *Scotland*, and that several times he endeavoured to perswade His Majesty to an offensive Warr against the Scots, under which particulars will fall in proof, his design against *Scotland*.

His design against *England* was of the same nature, which will appear by his words and by his Councils, and by some Speeches given out by those that have very near Relation to him, and are his creatures, who agreed with his own words likewise.

They

They shall prove to their Lordships, That on a discourse between Sir *George Ratcliffe* and Sir *Robert King*, concerning the War with the Scots, and my Lord of *Strafford* being engaged in it. Sir *George Ratcliffe* told him, We are engaged in a War with the Scots, and we must go on with it; and being demanded how the King would do, if he were not supplied by Parliament? He said the King hath 30000 men, and 400000 *l.* in his Purse, and his Sword by his side; and if he wants Money, who could pity him? That he said likewise he could make peace with the Scots when he list, but that was the worst of Evils.

There were other words spoken by Sir *George Wentworth*, my Lord of *Strafford*'s Brother, to a Gentleman, a Member of the House of Commons; that *England* was sick of Peace, and it would never be well with it, till it were again conquered. These were the words of others his Creatures, They shall prove his Lordship's own words and Counsels.

That he declared his opinion to my Lord Primate of *Ireland*, that in case of necessity, His Majesty might use his Prerogative, to levy what he needed, saving first to try the Parliament, and if that supply him not, then to use his Prerogative as he pleased.

That at another time when my Lord *Conway*, a Nobleman of this House, was pleased to ask him, How the Forces raised, and to be raised, should be paid? My Lord of *Strafford* said, he doubted not but twelve Subsidies would be given. My Lord *Conway* putting the doubt to him again, What if they should not be given? My Lord of *Strafford* was pleased to reply, Then the King would be acquitted before God and Men, if he took some other course to supply himself, though it were against the Will of the Subject.

At another time, when His Majesty had Graciously declared himself, that he would have a Parliament, he was pleased to say, That in case the Parliament should not supply him, he would be ready to serve him in any other way. These Words and Counsels were all before the calling of the last Parliament.

In the time of the sitting of the Parliament, the House of Commons were frequently urged by Messages, procured by my Lord of *Strafford* from His Majesty, to take consideration of the Kings Supply for a War against *Scotland*; and before consideration and relief of the grievances in Religion and Government of the Kingdom, 12 Subsidies were demanded, for release of the Ship-money only, and when the House of Commons were in debate concerning Supply, and before they came to resolution, by advise of my Lord of *Strafford*, that Parliament was dissolved.

After the Parliament was dissolved they shall show, how, by divers Words and Counsels my Lord of *Strafford* endeavoured, to incense His Majesty against His loving Subjects, and so to slander them to His Majesty, as to make a division between them; And also of His design, to bring in an Army upon us.

That he declared to His Majesty, that the Parliament had denied to supply him, and had quite forsaken him: and that he said to a Noble Earl of that House, That the Parliament in this great distress of the King and Kingdom, had refused to supply the King in the ordinary and usual way, and therefore the King might provide for the Kingdom, by such ways, as he thought fit; and that the King was not to suffer himself to be mastered by the frowardness, and undutifulness of his people.

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That he said at another time to a Nobleman in this House, That the Parliament in denying to supply the King, had given him advantage to supply himself by other ways. And if worse words can be uttered or spoken than what have been mentioned, they shall conclude with such of his words, as none can be imagined to be of more fearful and dangerous consequence, viz. The same day that the Parliament was dissolved, my Lord of *Strafford*, by way of advice and Counsel, told His Majesty, That now he had tryed the affections of His People, and that he was loose, and absolved from all rules of Government : That he was to do all that Power would admit; since he had tryed all ways, and was refused, and should, in so doing, be acquitted before God and men, and that he had an Army in *Ireland*, which he might employ to reduce his Kingdoms.

E. of Traquair

They began with that which concerned *Scotland*; The Earl of *Traquair* being sworn, was asked, What he remembred to be spoken by my Lord of *strafford*, concerning the demands made by the Scots in their Parliament, when he (my Lord *Traquair*) made relation of those demands, with the time, and other circumstances.

He *Answered*, That it would be hard for him to answer to so general a question, for their Lordships, and a great many know, that he made relation of the demands made by the Scotch Subjects in Parliament, at two several times, one by the King's Command here, before the Lords of the Council: Another by the like Command of His Majesty, before the Peers at *York*.

But being directed to apply himself to the words spoken by my Lord of *Strafford*, when he made his relation before the Council here.

His Lordship *Answered*, That he could hardly give an Answer to such a general Question; but he believed my Lord of *Strafford* when he was at Council, gave his opinion in any thing brought in debate, as the Lords of the Council did: He knew what was brought in debate, but cannot condescend to every thing that my Lord spake there.

Mr. Whitlock.

Mr. *Whitlock* here interposed, and said, That he mentioned not the particular words, that might come from my Lord *Traquair's* own expression; but the question he desired, was, Whether my Lord of *Strafford* did not say, The demand of the Scotch Parliament was a sufficient ground for the War?

To which my Lord *Traquair* being Interrogated ?

E. of Traquair.

He *Answered*, That he should very clearly declare to the best of his memory, what he heard upon that occasion; but for the present he could not remember particularly, of any such words expressed by my Lord of *Strafford* here at *Whitehall* (for he believes it was there when the Council met, when he made the first relation) But he remembred he was Deponed on these before, and if it might stand with their Lordships pleasure and form, he would willingly remit himself to his former Deposition.

Mr.

Mr. *Whitlock* offered to their Lordships, that (for the recollecting of his memory) my Lord *Traquair* might peruse the former Deposition.

But my Lord of *Strafford* opposed it, because their Lordships having not yet made use of any thing taken on oath, he desired that Rule might be still kept.

Mr. *Palmer* insisted on it, it being not offered as a proof to be heard, but because it was tender'd to him to vary (being on his oath) though but in a Syllable, from what he had spoken before; And Mr. *Glyn* added, That this is very ordinary at Law. But my Lord of *Portland* moved that the House might be Adjourned, that the examinations should not be made use of.

Mr. *Palmer*.

My Lord *Traquair* desired, that he might not be mistaken, for he would express his Reasons, and humbly submit it to their Lordships, that he was by order of their Lordships, examined on oath before, and examined on the same question, and he only submitted this to their Lordships, whether or not their Lordships would allow him, to remit himself to the Depositions in writing? And if it was not fit, nor consisted with their Lordships pleasure, he should go on to the best of his memory, and if he keep not the very words, he should keep the sense. And this he said was, that he might not vary from any thing that was in his written Deposition.

Mr. *Maynard* to induce their Lordships thereunto, instanced, That if a man writes a thing in a Book, and he after produced as a Witness, the Witness may have leave to look on his own Book, much more when he is examined, and there can be no suspicion of fraud in this.

Mr. *Maynard*.

Whence my Lord of *Strafford* inferred, That this Gentleman desired my Lord *Traquair* should desire that which my Lord himself did not desire.

E. of *Strafford*.

The Lord *Traquair* then proceeded and said; All that he remembered in this particular, to the best of his memory, was upon occasion of a Debate at *York*, at the Kings Majesties last being there; where it was required, That he should make that same relation before the Peers, who were to meet the next day after, that he had made at the Council-Board here: Some question having been made, what should be the ground or occasion of this relation again, since it was conceived, the business was not in the same condition it was, at the time of making his first relation: Because, as it was alledged at the time of making this relation, that it was only of Demands, and these Demands had been represented by the Commons of Parliament to His Majesty, with other Demands; and likewise in Parliament they had made these Demands pass into an Act: It was therefore represented by some, that there was not a necessity of making the same relation he had before; But of the Demands only, and not the Case of the business, as it stood before.

E. of *Traquair*.

And upon this, (wherein he shall not be obliged to words) but something to this sense; my Lord of *Strafford* expressed, That he conceived, That the unreasonable Demands of Subjects in Parliament, was a ground for the King to put himself into a posture; or to this sense: and his Lordship repeated, and explained it; That the unreasonable Demands of Subjects, was a ground for the King, to put himself into a posture of War.

E. of *Strafford*.

Being

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Being asked, Whether it was spoken of Demands in Parliament?

His Lordship *Answered*, It was, that the unreasonable Demands of His Subjects in Parliament &c. for it was on the Scotch business they were speaking.

Being asked, where this was spoken?

He *Answered*, It was spoken before the meeting of the Peers, at the Council, which was convened, and he believes his Majesty was present.

Being directed to repeat the words again?

His Lordship said, the words were, That the unreasonable Demands of Subjects in Parliament (for it was on the Scotch Demands) my Lord conceived, might be a ground for the Kings Majesty, to put himself into a posture of War.

Being asked, Whether these Demands of the Scots were not in Parliament?

He *Answered*, That all the Demands made to the Kings Commissioner, are in Parliament, or by the Parliament; and here he said he was forced to make a little digression, if he Answered to this, for the Parliaments there, use not that way that the Parliament doth here: For he being the Kings Commissioner, Propositions, and Demands, and Articles were made for him which are the preparatory ways of Parliaments; and some Commissioners from the Gentry and Nobility, made motions and demands to him in private, before they were voted in publique. And of them all, he was tyed to make an account. All were made in Parliament, or by Warrant of Parliament, or by some Body of the Parliament.

Being asked, whether some of the Lords then present, did not declare and express themselves to be of a contrary opinion?

He *Answered*, That truly as he believed the occasion of this came upon this debate, and he believed there were some of the Lords of the Parliament, by way of debate, of another opinion, as he remembred it. And particularly my Lord *Morton* said, he was of another opinion, to the best of his memory.

Being Interrogated, who first spake in Council after this relation?

He *Answered*, That he believed in this there might be a mistake, for at that time he had made no relation, but was to make a relation next morning before the Peers, and this was only the debate, whether he should make relation or not? But at that time at *York* no relation was made before the Council, but before the Peers next morning.

Being

Being Asked, But after the Relation made to the Peers, Who then spake first?

He *Answered*, That truly he could not tell.

Being Asked, Whether he could tell who spake first at *Whitehal*?

He *Answered*, That it is very well known to a great many Lords here, that he (by His Majesties Command) made a *Narrative* of the Demands made to him in Parliament by the Subjects of *Scotland*. In which Relation (he hoped my Lords memory would serve) he left the Commissioners, who were coming up, by Warrant from His Majesty, on Petition, to give a Reason of their Demands. This he did, and it was his greatest care to do it faithfully and ingenuously, without burdening of any whom it concerned: and, to burden his memory, who spake first, and who spake last, he could not tell; but, on debate of the business, something was proposed to the Table, and every man declared his Opinion; and, he thinks, they all agreed in one; but, who spake first, and who last, he knows not.

Being Asked, Whether he remembered the words my Lord of *Strafford* spake, at the making of that Relation to the Privy-Council?

He *Answered*, That he remembers that (which he hopes all my Lords well remember) on that Relation of his, the Kings Majesty being then present in Person, was graciously pleased to take notice of that, he (the Deponent) had there affirmed, That some one (he thinks his name was *Cunningham*) was sent from the Parliament of *Scotland*, to supplicate His Majesty to allow some of their own members to come up to His Presence, and present their Demands. The King was pleased it should be so; and when they were all of the same Opinion, the King condescended to it; and, to the best of his remembrance, it was consented to by my Lord of *Strafford* and the whole Board; That at their coming up, if they should not give good Reasons and satisfaction for their Demands, they would be assistant to His Majesty to put him in a posture, to reduce them to their due Obedience; But he cannot tie himself to words.

Being Asked, What was meant by a *Posture*?

He *Answered*, A posture of Warr he believed, must needs be a capacity and Power, to reduce them to Obedience.

Being desired (upon my Lord of *Strafford*s motion) to repeat the words again.

He *Answered*, That he made a *Narrative Relation*, and a *Narrative Relation* only: and the Commissioners, whom His Majesty was pleased to condescend to their coming up, to give Reasons of their Demands, That the Scotch Subjects had made in Parliament:

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ment: This being the State of the Question; and the Kings Majesty graciously condescending, that some of their own Members should come up, to represent their own Demands; It was put to the Question, What should be done? And this was the Conclusion (to his Memory, there being no Clerk nor Register there, wherein my Lord of *Strafford* was no more involved then the rest) that if these Commissioners should not, at their coming up, give good satisfaction touching their Demands, the Council would be assistant to His Majesty, to put Him into a Posture of Warr, to reduce them to their Obedience. He will not say, these very words were reported again to my Lords at *Tork*, but the Sence and way of them was.

L. Digby.

My Lord *Digby* did here desire leave of their Lordships, to represent something on Consideration of that, which was last in Question, touching the Witnesses helping themselves by their former Examinations. He did forbear it before, in regard he saw this Honorable Lord, for his own particular, did not insist on it; But, for the future, he thought it very necessary to represent it to their Lordships, as a thing not only much concerning the validity of the Proofs, but likewise very much conducing to the honour of many of their Lordships here; and, concerning the validity of their Proofs, he shall humbly offer this to their Lordships. That this noble Lord was often pleased to say, That he hoped he should not be tied to Words: Now, their Lordships may be pleased to consider the Charges of the present Articles are consisting principally of Words; to say, he shall not be tied to Words, is as much as to say, he shall not be tied to the Question. And this he offered only concerning the validity of the Proofs; But concerning the honor of some Noble Lords that sit here, he confesses he is very zealous in that when he thinks of it; that diverse of them have been Examined formerly upon Oath, and upon Oath set down, without great Leisure, and Recollection of the truth of things: and now, whether (so many Months after, being called again suddenly on Oath, to give account of these Words) the best memory may not be subject to variance and discrepantie, and may not forget some prejudice and disadvantage to those noble Lords honor, he humbly submits to their Lordships.

Mr. Glyn.

And Mr. *Glyn* added, That this Noble Lord hath prevented him; My Lord of *Traquair* hath not vary'd from his Examinations in substance, but if he had, under favour, they must stand upon his Examinations; and, it is Legal, and Just, and Ordinary; and never a Judge in *England* will deny it; that if a Witness be examined, and varies, his Examinations shall be read to his face, and it is no prejudice, for the party is ready to explain himself; And, he said, he was about the offering it, and now must offer it, according to the trust reposed in him by the House of Commons; that, if it stand with their Occasions, the Examinations may be read, and under favour they may.

E. of Strafford

To this my Lord of *Strafford* Answered, That here is a Question now stirred, that hath been hitherto denied; for, he could leave out any Examinations taken, and certainly, as he conceives, it was never intended, that these Examinations should be made use of. They were preparatory and no other: And (by this learned Gentlemans leave) whereas he speaks of the manner of proceedings on Tryals of ordinary Felonies, he (the Defendant)

pendant) hath seen some of them; and, in all particulars, where the Witnesses hath been *viva voce*, he never heard Examinations Read.

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But, Mr. Glyn averred what he said before; That if there be Examinations taken of a Felon at Common Law, and the Witness comes *viva voce*; and the Kings Council takes advantage, they do Read the Examinations taken.

Mr. Glyn.

And here the Lord Steward declared, That it is not denyed to any to recollect himself.

My Lord Traquair thereupon further alledged, That this was the first time he was ever Examined upon Oath; and, if he hath been occasion of any Scruple, he desired Pardon: but, it was long since he was Examined, and he could not see his Depositions; and, lest he should have erred in his Words, he desired this favour.

E. of Traquair.

Mr. Whitlock further added, That they must affirm this to be the ordinary and constant practice; and, if their Lordships doubt it, it shall be made good: and, he hopes, the Commons of England shall not be in worse Case, then an ordinary Prosecutor.

Mr. Whitlock.

And then offered the Deposition of my Lord Morton (he being taken ill at that time) to this Point.

By which means my Lord of Strafford observed himself to be debarred, of Cross-Examining him.

E. of Strafford.

And Mr. Whitlock Answered, And so is every Prisoner in the like Case.

Mr. Whitlock.

Yet my Lord of Strafford desired, He might reserve to himself the benefit of Cross-examining him, if he should see Cause.

E. of Strafford.

But Mr. Whitlock said, That, under favour, in this Case, no Prisoner hath benefit of Cross-Examination, where Examinations are read at Tryal.

Mr. Whitlock.

And Mr. Glyn added, That he perceived by my Lord of Strafford, that he expected notice, what Witnesses they were ready to produce, and his Lordship knew what Witnesses will be necessary for his Defence, and should be careful of them: But, Mr. Glyn said further, That he thought never any Prisoner expected to know from the Prosecutor, what Witnesses would be produced against him.

Mr. Glyn.

My Lord of Strafford confest, he might easily mistake, for never did so ignorant a Man, in their Proceedings, stand at the Bar: But, he conceived, that if the other party do examine, it stands with Reason they should give him notice of it, else he cannot possibly Cross-Examine.

E. of Strafford.

Mr. Whitlock thereunto replied, That their Examinations are taken preparatorily, and it is according to Course of Law; That, if any

Mr. Whitlock.

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Witnesses die, or be necessarily absent, their Examinations be used at the Tryal.

E. of *Strafford*.

Yet my Lord of *Strafford* said, He takes it, That if these be those they call preparatory Examinations, they ought not to be read but by an Order of the House.

L. H. Steward.

So my Lord Steward put an end to this matter, saying, That if it can be, the Witnesses, by the Order of the House, shall be Examined *viva voce*; if not, upon Faith made, the Examinations are to be heard. And

E. of *Morton*.

then they proceeded to Read the Examinations of the Earl of *Morton*, taken 23 January, 1640. by vertue of, and according to a Commission under the Great Seal of *England*, issued in Parliament, and dated 11 Jan. 1640.

To the 103. *Interrogatory*, This Examinant saith, That he was present at *York*, the Night before the meeting of the Great Council of the Peers of *England*, then at a Debate before His Majesty, touching the ground of that War against the *Scots*.

104. He saith, That at, or in the said Debate, he heard the Earl of *Strafford*, in His Majesties presence, say, That the unreasonable and exorbitant Demands made by the *Scots* in their Parliament, were a sufficient ground to make a War against them; and that the King needed not to seek for any other grounds for it, or words to that effect.

105. That towards the end of the said Debate, this Examinant told His Majesty, That His Majesty having given the *Scots* leave, in their Parliament, to Petition for Redress of such things, as they conceived to be Grievances, he said, His Majesty would not think it a sufficient ground, to make War against them for any Demands by them made in Parliament, without first hearing the Reasons thereof, which reasons were not before that time related at, or in any meeting of the Council, whereat this Examinant was present; howbeit the said Earl of *Strafford* again said, That there was ground enough for that War. After which his Majesty was pleased to say, That this Examinant had reason, for what this Examinant did then say.

Mr. *Whitlock*.

Whence Mr. *Whitlock* observed, That my Lord *Morton* went further then was opened; For though he told His Majesty, that that which was treated on in Parliament, especially by the Kings leave, and before the reason of these demands were declared, was not a sufficient ground of a War; yet notwithstanding, my Lord of *Strafford*, though he heard not these Reasons, nor knew whether they were unlawful or no, (he was not versed in *Republica aliena*) yet he reiterates and declares his advice again to His Majesty, That these Demands were a sufficient ground of War.

106. He saith, That when my Lord *Traquair* made Relation at the Council-Table, of the Demands made by the *scots* in their Parliament, without rendring any reason of the said Demands, as leaving this to the Scotch Commissioners, who were on their way, coming

coming towards His Majesty, by His Majesties leave, and allowed to yield their Reasons in that behalf: which Course of the said Earl of *Traquairs*, in leaving the said reasons to the said Commissioners, His Majesty well approved of, and pleased himself to expect from him a Relation onely what the said demands were; this Examinant, on the said occasion, heard the said E. of *Strafford* say to His Majesty, after the said Demands so related, That the said Demands were not matters of *Religion*, but such as did strike at the Root of Government, and such as he thought were fit for his Majesty to punish by force; or words to such effect.

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Whence Mr. *Whitlock* observed, That the words last read, were spoken by my Lord of *Strafford*, at that time, when my Lord *Traquair* made a Relation before the Council here, which was a great while before the second Relation at *York*, before the Great Council of the Peers. And, though the King himself, in his Clemency and Goodness, thought that a sufficient Reason, to do no more upon it at that time, having not heard the Reasons; yet my Lord of *Strafford* was pleased then to give Him this Counsel.

Mr. *Whitlock*.

My Lord *Traquair* being Interrogated, Whether the Reasons of the Demands were given before, or at the Meeting at *Whitehall*?

E. of *Traquair*.
Witness.

He *Answered*, That at his first Relation, their Lordships know very well, the Commissioners were not come up; but, he cannot burthen his Memory, That he heard my Lord of *Strafford* say such words.

Mr. *Glyn* observed, That they put it only to this, That the Reasons were not, nor could not be related, the Commissioners being not come up.

Mr. *Glyn*.

And, from these Proofes, Mr. *Whitlock* conceived it to stand proved, That my Lord of *Strafford* laboured to perswade His Majesty to an Offensive War, to Imbroyle both Kingdoms in a National Quarrel, and the blood one of another, and this several times: and that at *Whitehall* being Three Quarters of a year before the other, which was at the Council at *York*.

Mr. *Whitlock*.

For Proof of the further Prosecution of his Design.

Sir *Henry Vane*, Treasurer of His Majesties Household, and Principal Secretary of State, was Sworn and Interrogated, What Advice my Lord of *Strafford* gave to His Majesty, concerning making of a War with *Scotland*; or seizing their Lordships?

Sir *Henry Vane*
Witness.

He *Answered*, That he should be very glad to understand the Question cleerly, before he makes an Answer; for, to part of it, he is able to say nothing: that is, concerning the Ships of *Scotland*, he not hearing of it till now. And, he will be sorry here, to say any thing, that is not true; for, he conceives, the Witnesses were put upon a great strait. The Examinations were taken long since; and, for his part, he hath seen none of

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them: And he besought their Lordships, to take so much care of them, that they may not be subject to cross what was said before; and, peradventure, bespatter our selves, when we ought to have our Memories a little refresh't in it. This he said he thought fit to speak before he Answers the Question; and, if he be asked such a Question as he cannot clearly Answer to, he shall do it Candidly and Ingenuously; but, to the Ships, he can say nothing.

Being Asked, Whether about the 5th day of May, 1639, he heard my Lord of *Strafford* perswade the King to an offensive War against the Scots?

He Answered, saying, That to that question he is able to speak; and, he is the better able (which he may declare to their Lordships here) because His Majesty hath been pleased, out of the Justice and equality he owes to all his Servants, to give him leave to do it: To that point then, this he says, clearly and plainly, Whether it were upon the 5th day of May, or no, he is not able to say; but either that day, or shortly after, where diverse of my Lords were present, being commanded, after the breach of the Parliament, to speak what was fit to be done, and every man to vote in his own turn, and he amongst the rest took his turn; and he must say, that after Mr. Secretary *Windebank* had spoken first of it, it came to him: There were then diverse Reasons agitated, which do not occur to his Memory; but this he remembers well, a Defensive War was proposed, for it was proposed by himself: Thereupon that was not thought fit to be done; and certainly my Lord of *Strafford* was of opinion for an Offensive War. This he can say, and this is all he can say to this point.

Being Interrogated, What he could say against my Lord of *Strafford* procuring the Parliament of Ireland, to engage themselves in a Supply for a War against Scotland?

He Answered, That this was new to him; and, he could say nothing to it in particular, but what in general came to his knowledge; That so many Subsidies were given to the King: and that is all he can say, having not heard of the Question till now.

Mr. *Whitlock*,

Mr. *Whitlock* desired to read my Lord of *Northumberland* his Examination.

E. of *Strafford*.

But, my Lord of *Strafford* conceived that not so proper, his Examination being reserved.

Mr. *Whitlock*.

Which Objection Mr. *Whitlock* taking off, by offering to their Lordships that for which they desired to reserve him, was another Matter, they now desiring his Examinations only to the point, of my Lord of *Strafford* perswading the King to an Offensive War against the Scots.

The

The Examination of Algernon Earl of Northumberland, taken 5th December, 1640. Read.

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To the 16th Interrogatory, he saith; That the said Lord Lieutenant did, after the breach of the last Parliament, advise His Majesty, To go vigorously on in an Offensive, and not Defensive War against the Scots.

E. of Northumberland.
Witness.

The Lord Bishop of London, Lord Treasurer of England, Sworn, and Interrogated, What he knew concerning the Earl of Straffords giving Advice to His Majesty, to go on in an Offensive War against the Scots, before, or after the breach of the last Parliament?

Bish. of London
Witness.

He Answered, That all he remembred of my Lord of Straffords Advice, touching a War, was, That which he gave publickly in Council at the Council-Board; for, he remembred not any single Advice that he gave at all. The Advice given by his Lordship (the Deponent) at the Council-Board, after the Relation made by my Lord (the Earl of Traquair) to the best of his remembrance was this; My Lord Traquair did make a Relation before His Majesty, and my Lords, of what had passed in the Parliament of Scotland, and of many Demands made there; whereunto they did desire to have His Majesties consent and approbation: His Majesty was pleased to signifie to those Lords, That, among these Demands, there were some of them very prejudicial to that Crown; insomuch, that He could by no means give way to and consent to them, with His Honor and safety, and thereupon the Advice, or Opinion, given, was (and then was given by my Lord the Earl of Strafford, (as well as others of my Lords) and the Demands being of that nature, as they were then informed, and the Commissioners, as he remembers, being then come up, or at least had a Licence to come up,) It was Resolved upon, That, in case they should insist upon those Demands, that had been so related, and would not recede nor alter, nor submit otherwise, then His Majesty should prepare Himself to reduce them by force; this he takes to be my Lord of Straffords Expression, and the Substance of what was there delivered.

Being Asked, Whether my Lord of Strafford advised then an Offensive War, or a Defensive War?

He Answered, That he did not well remember what kind of War, but he thinks it was an Offensive War.

Being Asked, Whether at the Dissolving of the last Parliament, my Lord of Strafford did not advise to an Offensive War?

He Answered, That he remembers, upon a Meeting afterwards, of casting up the Charges, and other things, there was a discourse of it, Whether it was best to have a War, as only Defensive (the War being then resolved upon) or to make an Offensive

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Offensive War? that is, to enter into *Scotland* with Force: And there were diverse Opinions in't, and he believes my Lord did incline to the Opinion, for an Offensive War.

Being Asked (on my Lord of *Straffords* motion) Whether he (my Lord of *Strafford*) delivered any Opinion at that time, different from the rest of the Lords present?

He *Answered*, That every man there, exprest himself in such sort as he thought fit; some in one kind, some in another; but he did not observe any difference as to the main, in the Opinion of any man.

Being Asked, About the time, When this was?

He *Answered*, It was at the Council-Board, at that time, when my Lord *Traquair* made his Relation, and, as he remembers, it was about *December*.

Being Asked, Whether he delivered his Opinion once, or twice?

He *Answered*, The Opinion was delivered but once, as he Remembers.

To the Seizing of the Scotch Ships in *Ireland*, after the Pacification,

Mr. *Barnewell*
Witness.

Mr. *Nich. Barnewell* Sworn, and Interrogated, What he knew of the stopping of the Scotch Ships in *Ireland*?

He *Answered*, That Sir *Robert Loftus* had a place under my Lord Admiral, and had seized on some Scotch Ships and Boates; and, that others fled away: and, that Sir *George Ratcliff* was Angry that he spoke of it in so Publick a Place, as to give them occasion to run away; but, the time he doth not remember: and, he thinks, Sir *Robert Loftus* was Vice-Admiral of *Leinster*; but, he cannot take his Oath that the *Warrant* was from my Lord of *Strafford*; but, Sir *Robert* told him, He had a *Warrant*.

Mr. *Whitlock*.

And so Mr. *Whitlock* said, They would leave it, as to the matter of *Scotland*, and observed the Proofes. That when a free Parliament was Convened there, by the Kings Authority, and had liberty to treat of their Grievances and Demands; and, when these Demands, by way of Narration, were declared in my Lord of *Straffords* hearing, though the reasons of them were not then delivered: yet my Lord of *Strafford* gave his Advice to the King, That these Demands made in Parliament were a sufficient ground of a War against them, even after His Majesty had declared Himself satisfied, and would stay to hear the Reasons; but that would not satisfy my Lord of *Strafford*, he himself declared it at several times, and before himself had heard the Reasons, that the Demands made by the Kings Free Parliament,

Parliament, were a sufficient ground of a War: And if it be so (Mr. Whitlock, said he) he is sure then, Parliament or no Parliament, no Liberty, nor Property can subsist with it.

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My Lord of *Strafford* hath declared his intention and designe, to subvert the Parliament, and to subvert the Government of *Scotland*. That he perswaded the King to an offensive War, and told the King, their Demands were not matter of Religion, but struck at the root of Government, and that it was fit to punish them by force, and on these proofs it is conceived his Designe was manifest. After this Mr. *Whitlock* proceeded to shew also his Design against *England*, and began with the Testimony of my Lord Primate of *Ireland*.

The Examination of the Right Reverend Father in God, *James*, Lord Archbishop of *Armagh*, Primate of all *Ireland*, taken 11 Jan. 1640.

To the 119th Interrogatory he saith, That in or about *April* last past, in discourse betwixt the Earl of *Strafford*, Lord-Lieutenant of *Ireland*, and this Examinant at *Dublin* in *Ireland*, touching the Levies of Money upon the Subjects by the King, he did hear the said Earl of *Strafford* declare, That he did agree with those in *England*, who thought, that (in case of imminent necessity) the King might make use of his Prerogative, to levy what he needed, save that, as his Lordship then further said, in his opinion) His Majesty was first to try His Parliament, and if that supplied him not, then he might make use of His Prerogative, as He pleased Himself; or words to that effect.

Archbishop of
Armagh Wit-
ness.

The Lord *Conway* being asked what words my Lord of *Strafford* used, when the said Lord *Conway* Demanded, How the Army should be paid, in case the Parliament gave not supply?

L. *Conway*
Witness.

His Lordship Answered, That he had been formerly examined upon this thing, and then gave his Answer, and besought their Lordships to give him leave to look on what he said, that he might not vary.

And after some Debate thereupon, having the Copy of his Examination shewed him.

He Answered to the said Question, That it was only for one word, that he desired to look into the Paper, and it was, whether in the later end he did not say (or words to that effect) These words about which he is examined, did pass between my Lord of *Strafford* and him in private discourse, when (he believes) neither of them thought they should have been called to an account for them; for they were then thinking of raising of Horse, and seeing but small sums of Money, He asked my Lord how these Forces should be paid? His Lordship Answered, He made no doubt, but that the Parliament would give assistance to the King by 12 Subsidies; and if they did that, it would sufficiently pay the Army, or some such words. But said he (my Lord *Conway*) What if the Parliament shall not supply the King, or not give these Subsidies? Then my Lord of *Strafford* said, or words to that effect, That the King had need, and if the Parli-
ment

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ment would not supply the King in those things that were just and lawful to be supplied; and if they would be so wilful, as not to supply him; then the King was justified before God and Man, if he did help himself in the Goods of the Subjects (or to this effect) tho it were against their Wills.

Being directed to repeat the words again (on my Lord of *Strafford's* motion.)

His Lordship *Answered*, That in his examination he said words to this effect, and so he doth now, yet doth not depose absolutely, that these very words were spoken, but to his understanding, and as he then conceived them, they were to this purpose; when he asked my Lord of *Strafford*, how these Troops then raised should be paid? My Lord of *Strafford* said, He made no doubt but the Parliament would supply the King, and give him 12 Subsidies. And saying again. What if the Parliament would not give him that assistance? My Lord of *Strafford* said, The cause was very just and lawful, and if the Parliament would not supply him, then he was justified before God and Man, if he sought means to help himself, though it were against their Wills.

Sir Henry Vane
Witness.

Sir *Henry Vane* being Interrogated, whether he did not hear my Lord of *Strafford* (when consideration was had of a Parliament, before the last Parliament) promise His Majesty, in case the Parliament did not succeed, he would be ready to serve him in any other way?

He *Answered*, That he must begin, as the Lord that spake last (since they have no help of their Examinations) which is, that the words were such, or to such an effect, for otherwise, they that be Witnesses have a very hard task to play, for they lye open to be excepted against, and peradventure when they speak truly, may be intangled, if their memory help them not out. But to the Question proposed, he says this, That upon the 5th of December, as he takes it, he did hear my Lord of *Strafford* speak words to that effect, as they are now asked, to his best remembrance: and truly (he thinks) really he did viz. That truly if the Parliament should not succeed, his Lordship would be ready to assist His Majesty any other way, or words to this effect.

Mr. Whitlock,

Mr. *Whitlock* summed up the Evidence, and said, There was an intent to call a Parliament, to try if they would give the King a Supply, and being engaged in a War against the Scots, my Lord of *Strafford* before the Parliament came, doubted not but 12 Subsidies would be given, and while the Parliament was sitting, that was the number demanded by a Message from the King.

This designe did not take other effect than himself expected, and it seems desired; for when the Parliament was set, and frequently urged by messages from His Majesty, to give that very number of 12 Subsidies, and that for release of Ship-money only, whereas by the old and right course of Parliaments, the grievances are in the first place to be considered of, and to be humbly presented to His Majesty; and upon redress of those grievan-
ces

ces, the people are to shew their thankfulness to His Majesty, for His Grace and Goodness, in redressing of them, by their free gift of Subsidies.

Artic. XXI.

My Lord of *Strafford* changes this course, and perswades His Majesty to put the Subsidies in the first place, and to fall at first on consideration of supply, and that so great a proportion, and while the Parliament was in debate of this, and before they had resolved whether they would give Supply or no, by my Lord of *Strafford's* advice, the Parliament was Dissolved; His Lordship confesses in his Answer, he did give his Vote for dissolving of the Parliament, and they shall make it appear in time, that he did procure it.

After the Parliament was Dissolved, my Lord of *Strafford* goes on, endeavouring all that lay in his power, to incense a Gracious Sovereign against His loving Subjects, to slander the people to the King, and for ever to break off all Parliaments, and take away the Liberty and Property of the Subject; and by what course? By Force, by bringing in an Army amongst us. That was his Advice, tho (blessed be God) His Majesty was pleased to reject it.

1. To prove what was said by the Creatures and Friends of my Lord of *Strafford*.

Sir Ro. King being Interrogated, What words he heard from Sir George Ratcliffe to this purpose, That the King had an Army, and Money in his Purse, and if His Subjects in *England* should not supply him, what use he might make of His Army for supply, and the times?

Sir Ro. King,
Witness.

He Answered, That he demanded of Sir George Ratcliffe, How the King would do for Money to maintain the Scotch War? Sir George Ratcliffe said, The King could not want Money, His Majesty had an Army of 30000 Men, and he had 400000 *l.* in his Purse, and a Sword by his side, and if he would want Money, who could pity him? or words to this purpose.

To which he the Deponent objected, How can this course be taken, when the Scotch are on foot unpacified? Sir George Answered, They can make peace with the Scotch when they please; and being riding together to the ——— he the Deponent said, That my Lord Lieutenant, and the said Sir George had least reason of all His Majesties Subjects to desire a War. Sir George Answered, It is true, For his part he would give 20000 *l.* to be quit of it, but we are now engaged, and we cannot but go on; and then he (the Deponent) asking, What he would do for Money? Sir George Answered, The King could not want Money, He had an Army, &c. as before is deposed.

Being asked what was the reason of making this Demand, and whether he did conceive a forcible way was intended?

He Answered, He did understand that by the words, *That if they would not supply him, the King was ready to supply himself.*

Lord Ranalough being Interrogated, What he heard Sir George Ratcliffe speak, concerning the Kings levying Money by force, or to that purpose?

L. Ranalough
Witness.

Artic. XXI

L. Ranalaugh
Witness.

He *Answered*, That the words he is to inform their Lordships of, and on which he was formerly examined, proceeded from Sir George Ratcliffe, not to him privately and only, but they were spoken in a Council of War, when they were assembled together upon that service. My Lord-Lieutenant arrived in *Ireland* in *March* was 12 Months, and after his Lordship had spent some days in *Ireland*, (within which time he (the *Deponent*) with others, were commanded, to attend at a Council of War) departed that Kingdom, leaving direction behind him, how this affair should be proceeded in, in his Lordships absence; and as he takes it, in the beginning of *April*, my Lord departed out of *Ireland*; and not long after, they being assembled in a Council of War, there was occasion to speak of all preparations that should be, for the raising of an Army of 8000 Foot, and Provision for transportation of 1000 Horse, which was the Army of *Ireland* at that time. In these discourses they found there was a great deal of Treasure to be consumed, and much Money required, to supply the occasion: It was computed (and he thinks, Sir George Ratcliffe had a privy hand in the computing of it) how much charge would maintain the Army for a year? and to the best of his remembrance, it was computed at 270000 *l.* and odd, which gave them occasion (considering the Army to be transported out of *Ireland*, was but in proportion $\frac{1}{3}$ of what was prepared in *England*) to speak of the Charge that must be raised in *England*, according to that proportion: And they finding it to amount to so great a sum, it fell into question, how the King should be supplied with Money, for so great expence of Treasure, if he were not supplied by Parliament? Sir George Ratcliffe *Answered*, The King hath his Sword by his side, and 30000 men at command, and if he want money, let no man pity him. It was thereupon replied, and as (he the *Deponent* takes it, by himself) how can Money be raised, when the Scotch Army is on foot, and so strong? Sir George *Answered*, We can make peace with the Scots when we list, but that is the worst of evils; and this is in substance as much as the *Deponent* can remember.

Mr. Whitlock.

Whence Mr. Whitlock observed, That their Lordships heard what passed from Sir George Ratcliffe in Words and Counsels, and that their Lordships knew the nearness and relation between Sir George Ratcliffe, and my Lord of Strafford, and this was after direction was left for raising the Army; and when my Lord of Strafford was come away himself, it seems he had left his directions with Sir George Ratcliffe, as it will appear by my Lords own words concurring with these.

Mr. Maynard.

And Mr. Maynard desired their Lordships to take notice of these words, (*We can make peace with the Scots when we will*) it was not Sir George Ratcliffe alone.

Sir Thomas
Barrington
Witness.

Sir Tho. Barrington being Sworn and Interrogated, what words passed from Sir George Wentworth to him, About *Englands being sick of Peace*, &c, at what time it was, and on what occasion?

He

He *Answered*, That immediately after the last Parliament, Sir George Wentworth had accidentally a discourse with him, being a Gentleman, with whom, he (the *Deponent*) never had intercourse or interlocution before that time. On some discourse betwixt them concerning the former Parliament, in the close of his discourse, he was pleased to express himself thus. *This Commonwealth is sick of Peace, and will not be well till it be conquered again.* The application of these words, he (the *Deponent*) said, he must leave to their Lordships better Judgements, he not being able to decide it: And to the occasion, according to the truth which shall be ever present with him, he (the *Deponent*) said he would deliver it clearly. They had some occasion to discourse of the former Parliament, and speaking now on his oath, he must express that, which otherwise he should not, being the words of a private discourse, which in the course of his life he hath ever avoided, especially in the Case of a Gentleman. They were in discourse of the former Parliament, and the carriage of that; and Sir George Wentworth was of one opinion, and he (the *Deponent*) of another. Sir George expressed himself in this sence, That he conceived the Parliament had no intention to give the King Money, he (the *Deponent*) said, That if the Kings Majesty had pleased, they had sate awhile together; they had supplied him, And on the close, that expression fell from him, that which he (the *Deponent*) said, he shall not need to repeat.

Sir Robert King being Interrogated, what sence and apprehension was in my Lord Ranalaugh, on the words that fell from Sir George Ratcliffe at the Council-Board?

King Witness

He *Answered*, That my Lord Ranalaugh did conceive, there was an intention to take Money forcibly in *England*, and was much troubled with the words, and cast out some such Speeches; That we shall turn our swords on them from whom we are descended, and having cut their throats, make way for our own safety, or some such words.

Lord Ranalaugh being Interrogated, what his sence was of these words, spoken by Sir George Ratcliffe?

Ranalaugh Witness.

He *Answered*, That the expression of these words, and some other words, that fell from my Lord-Lieutenant to himself, before his Lordships departure out of *Ireland*, made him doubt that there might be some danger intended, by the transportation of the Army; and it was not his sence alone, for upon discourse betwixt others that were of the Council and himself, the like apprehensions were amongst them, as between my Lord President of *Munster* and him; and also between Sir Adam Loftus and him: Those that durst be free one to another, did express their fears and apprehensions about it.

Artic. XXII.

Being asked, what the words were my Lord of *Strafford* spake to him, on which the apprehensions were grounded?

He *Answered*, That it was thus: My Lord of *Strafford* at his last being in *Ireland*, was pleased to say to him, My Lord, will you buy any Land? I will sell you all the Land I have in *Ireland*. To which, he the Lord *Ranalaugh Answered*, That he is not able to buy Land, being in debt, and God forbid his Lordship should sell his Land in *Ireland*; Truly says he, my Lord, we are like to have a troublesome world, and I am willing to part with it. To which, the Lord *Ranalaugh* replied, it will be hard then with us, that have no Estates but in *Ireland*. No my Lord (says my Lord of *Strafford*) I do not mean it so, for I believe you will be quieter here, than they will be in *England*: But he doth not think that ever he spake these last words to Sir *Robert King* in his life.

Being asked, How he expressed his sense of those words to Sir *Robert King*?

He *Answered*, That the first discourse was from Sir *George Ratcliffe*; the latter was from my Lord to himself. He apprehended there was some design (as he feared) in *England*, and he had this reason for it too. For in that condition they were then in, they of the Council of Warr saw no possibility to make this Army in a readiness to invade *Scotland* within the time limited; for by directions of my Lord of *Strafford*, left with them, they were to be ready at the Provincial Rendezvous, by the 18th of *May*, and that by subsequent directions, was forborn till 18th *June*: then they all met, to march to the general Rendezvous; The Arms, Ammunition, and Preparations could not be ready so soon, nor were they in readiness, till the end of *Sept.* following; So that on the whole matter, those amongst them that might be free, their consultations all agreed, that it might tend to the purposes here declared.

Mr. *Whitlock*.

And from the time observed by my Lord *Ranalaugh*, for the raising of the Army in *Ireland*, Mr. *Whitlock* observed, That it could not be intended for *Scotland*, for no Army was raised in *Scotland*, till some months after.

To prove the words spoken by the Lord of *Strafford* himself, to shew his designe to bring the Army to *England*.

Sir *Tho. German*,
Witness.

Sir *Tho. German* Comptroller of His Majesties Household, being Interrogated, whether he heard not the Earl of *Strafford* tell the King, that the Parliament had denyed to supply him, and had forsaken him, or words to that effect?

He *Answered*, That he should humbly presume to crave one thing of their Lordships, and it was briefly this, There is nothing that he can be Interrogated upon in this Cause, but it must fall within the cognizance and knowledge of many of my Lords here present, who must needs remember all that he hath to say, as well, or perhaps better than he can himself; His humble desire therefore

therefore to their Lordships is, That if through distance of time, and the weakness of his memory, there be any thing that may be better remembered by some of their Lordships, than is at this time by himself, it may not be imputed to him, as from a desire of concealing any part of the truth, but a failor in memory; and that their Lordships will believe of him, that in this great Assembly, he shall be very unwilling to speak any thing, but, that that shall perfectly occur to his remembrance, and that request granted, he shall humbly answer to every thing. And to the question he remembers very well, that he was Interrogated upon the same terms heretofore, that he is now. His Answer was then, as he takes it, in these words; That he remembered that he heard my Lord of *Strafford* say something of the Parliaments deserting, or forsaking the King, or something to that effect or purpose; but he did not remember then, what inference my Lord made upon it, nor what he did conclude thereupon; neither can he now call himself to further remembrance on that point, than he then deposed.

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The Earl of *Bristol* Sworn and Interrogated, Whether he heard any words spoken by my Lord of *Strafford*, That in this great distress of King and Kingdom, the Parliament had refused to supply the King in the ordinary and usual way, and that therefore the King might provide for the Kingdom, by such ways as he thought fit, and was not to suffer himself to be mastered by the frowardness and undutifulness of his people, or to that effect?

E. of *Bristol*
Witness.

He Answered, That it is very true, that about 12 months since, by meer accident, he had a private discourse with my Lord of *Strafford*, and some months after had discourse with a Peer of this House, my Lord *Conway* by name, merely to let him know the difference that was between some Tenants of my Lord of *Strafford*s and himself (the Earl of *Bristol*) What use hath been made of it, he doth not know; But upon this, he doth conceive he comes to be Interrogated: It is almost Twelvemonths agoe, since this discourse did happen, yet afterwards he was called, now a month or six weeks since, and was examined on oath on several Interrogatories; After he had well recollected himself, he did set down for his memory, what he could think of, and out of those Notes and Papers, he did then make his Answer: Now his examination being upon oath, he shall be very loath to depose particularly to words, but to the effect of what passed: And therefore he shall crave leave, not out of his examinations, but out of the words he then set down, to read the effect of what he then spake; for if a man be deprived of words, and tell not the sense and coherence, and subsequents, he shall not do himself right, but may do a great deal of wrong to the party accused: and therefore, though it be somewhat the longer, he shall tell the circumstances. It is true, That after the dissolution of the last Parliament, he had discourse accidentally with the Earl of *Strafford*, but being many months since, he cannot precisely depose unto the words that then passed; But he remembers, that speaking then together of the great distractions of those

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those times (*Videlicet*) touching the present things, that were then at *Lambeth* (for it was just about that time of the Mutiny of some Soldiers against their Officers) of the present great danger apprehended by the ensuing War (as was feared) of *Scotland*, and of the said Parliament being broken, without supplying the King; he (the Earl of *Bristol*) did then, in his discourse, chiefly attribute these disorders to the breach of the Parliament; And, speaking what might be the best way for help in these distressed times, he then conceived and said, that he thought the best way to prevent any desperate undertakings, would be, to Summon a new Parliament, that might quiet the times for the present.

The expectation thereof might quiet the Distempers at that time. And, as for the War of *Scotland*, he did much fear the success of it, unless the King should be assisted both with the Purse and Affections of his People. And he Alleading to my Lord of *Strafford* many Reasons for it, conceiving it was not likely, that our Nation, lying under great Grievances, should go willingly and chearfully to a War, labouring under the same grievances with themselves. My Lord of *Strafford* (he must speak it, and confess it very ingenuously) seemed no way to dislike the Discourse; but said, he did not conceive it to be Counsellable at that time; neither did the present dangers of the Kingdom (which were not now imaginary, but real and pressing) admit of so slow and uncertain a remedy, as a Parliament was; for that the Parliament had, in the great distress of the King and Kingdom, refused now to supply the King, by the ordinary and usual way of Subsidies: and therefore the King must provide for the safety of his Kingdom, by such wayes as He should think fit in his wisdom. And he (the Earl of *Bristol*) doth remember, that the said Earl of *Strafford*, at the same time, did use the Sentence, *Salus Reipublice Suprema Lex*: And further (not to bind himself to words, but to the sense) at the same time, the Earl of *Strafford* used these words, or words to this effect. That the King was not to suffer himself to be mastered by the frowardness and undutifulness of his People, or rather (as he conceives) by the disaffection and stubbornness of some particular men.

And this he said from his former Notes, which he thought fit rather to use, than to trust his Memory.

Being Asked, Whether by particular Men, he meant not particular members of the Parliament?

His Lordship Answered; By his Troth he conceives so, for he was speaking of the Parliament.

Edward Lord Newburgh being Sworn, and Interrogated, Whether he did not hear my Lord of *Strafford* speak these words to His Majesty, That the Parliament, in denying the King, had given him advantage to supply himself by other wayes?

His

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His Lordship *Answered*, That those very words he never heard, nor words to that effect. But, he hath *Answered*, in his *Deposition*, what he hath heard; and he shall desire to speak a little before he Repeats it; And this it is. When he was Examined, he did then speak that, which occurred to his memory; but, since the agitation of this business, something else hath come into his thoughts; And, if he shall speak that which his Conscience now tells him, he shall desire my Lords that then Examined him, and the Gentlemen, not to misinterpret him, if he shall add something to what he formerly delivered. He cannot say, whether (when he heard these words) the King was by or no, for he doth not remember it; But, he very well remembers, that after the breach of the last Parliament, he heard, at the Gallery, or Council-Table, but he rather believes now at Council-Table, some words to this effect; That, seeing the Parliament had not supplied the King, His Majesty might take other Courses, for Defence of the Kingdom: But, though he cannot possibly Swear, my Lord Lieutenant spake these words; yet, he verily believes he heard him speak something to this purpose: And, this is all he can testify.

Henry Earl of Holland Sworn, and Interrogated, Whether he did not hear my Lord of *Strafford* say to His Majesty, That the Parliament, in denying the King, had given Him advantage to supply Himself, by other ways, or words to that effect?

E. of Holland
Witness.

His Lordship *Answered*, That he needs not trouble their Lordships with Circumstances, or long Discourses; but, these words, to the best of his remembrance, according to his Oath, he conceives were said to the King, upon the Dissolving of the Parliament, at the Council-Table; That the Parliament, in denying to supply the King, had given Him advantage to supply Himself by other ways. But, he will not tie himself so particularly to the words, but, as at the time when he was Examined before the Gentlemen of the Committee, he added, or words to this effect.

Being Asked, By whom they were spoken?

His Lordship *Answered*, By my Lord of *Strafford*.

Mr. *Whitlock* then proceeded to the latter words of the 23^d Article, which shew, in full and plain termes, what my Lord of *Strafford*'s design was, and what he would have laboured, and endeavoured His Majesty to entertain.

Mr. *Whitlock*,

The words of the Charge were Read.

And, to prove them, the Examination of *Algernon* Earl of *Northumberland* was first Read, taken the 5th Decemb. 1640.

To the 7th Interrogatory he saith, That the Earl of *Strafford* said, That in case of necessity, and for the Defence and Safety of the Kingdom,

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Kingdom, if the People do refuse to supply the King, the King is Absolved from Rules of Government: and, that every thing is to be done for the preservation of the King and His People; and, that His Majesty was acquitted before God and Man; And he saith, that the said words were spoken at the Committee for Scotch Affairs, in the presence of His Majesty; and, for the time of speaking these words, he doth not perfectly remember. He saith, That these were the Discourses mentioned in his Answer to the third Interrogatory, which made him believe what he hath answered to the said third Interrogatory.

Their Lordships calling to have the third Interrogatory Read, It was Read.

To the Third and Fourth, he saith, That the Forces which were to come out of *Ireland*, were to Land in the West part of *Scotland*; but he doth not know, nor hath heard (to his Remembrance) that these Forces, or any other, were to be employed in this Kingdom, to Compel, or Awe the Subjects of this Realm, to yield to such Taxes and Charges, as should be Imposed on them by His Majesty. He saith, That he hath heard my Lord Lieutenant make some Discourses to the King, whereby he believes, that in case the King were not supplied by Parliament, that some Course was intended to raise Moneys by Extraordinary wayes.

He saith, That the said Lord Lieutenant did declare, in His Majesties presence, That the Design was to Land the Irish Army in the West parts of *Scotland*.

Sir Henry Vane
Witness.

Sir Henry Vane being Interrogated, What words he heard my Lord of *Strafford* speak to the King, before the Parliament, or after the Dissolution of it, tending to this; That the King had tried the Affections of His People, and was Loose and Absolved from all Rules of Government: and on what occasion?

He Answered, That to the General Question, of what was spoken before, or after the sitting of the Parliament, he doth not remember: and there are no particular words asked him. But, to these words, which have been read, he shall, as near as he can, ingenuously deliver, what he did formerly depose; ever reserving to himself words to the same effect. That he considers very well where he is, and the presence before whom he speaks; That he hath never, in the whole course of his life loved to tell an untruth, much less in this Honourable Assembly. That he shall, as near as he can, in this Case, tell their Lordships plainly and truly the matter. It is true (as my Lord Admiral hath declared to their Lordships) that these words he is to testify, were spoken at the Committee of Eight for the Scotch Affairs: For the time, he shall crave pardon, if he cannot particularly speak to it: But, thus far he shall say, It was clearly after the Dissolution of the last Parliament; It is true, and if he do not very much mistake, it was when the debate, whether a Defensive or an Offensive War, was Controverted; And, to the best that

that he can remember, and clearly as he conceives, there were words spoken, either these he shall now relate, or to the same effect, by my Lord of *Strafford*, who is now at the Bar. The occasion being, Whether an Offensive or Defensive War? and Arguments were Controverted in it. My Lord of *Strafford* did say, in a Discourse (for he must be ingenuous, he must say all he hath deposed, or is required) Your Majesty having tryed all wayes, and being Refused; and, in Case of this extream necessity, and for the safety of the Kingdom, You are acquitted before God and Men: You have an Army in *Ireland*, which You may Employ here to Reduce this Kingdom, or some words to this effect: And, Sir *Henry Vane* added, That he desires to speak clearly to it; It is true, My Lord of *Strafford* said these words, *You may*. But, by that, he (the Examinant) cannot say it was intended, but that the words were spoken; and, if it were the last hour he is to speak, it is the Truth to his best Remembrance.

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Being Asked (on the severall Motions of my Lord of *Clare*, and my Lord *Savil*) Whether, by this Kingdom, he meant the Kingdom of *England*, or *Scotland*? and, Whether it was meant, That he might employ the Army in *England*, or in *Ireland*, because he said, The Army might be there employed?

He Answered, That he shall, as near as he can: And, because he would have Truth appear, he shall desire, That if in this Case, any word fall, which may be uncouth in the Sence, they would resort to his Examinations, for there it remains under his Hand and Oath.

But, to his best remembrance, he thinks, neither *then*, nor *there* were used; But, Your Majesty hath an Army in *Ireland*, You may Employ to reduce this Kingdom: But, far be it from him (the Examinant) to Interpret them. He tells their Lordships the words, and no other.

Being directed by the Lord Steward, to repeat what he had spoken.

He Answered, That he shall plainly and clearly do it; These words were spoken (as my Lord of *Northumberland* hath testified) at the Committee of *Eight*, for the Scotch Affairs: It was an occasion of a Debate, Whether an Offensive, or a Defensive War with the Kingdom of *Scotland*? That, on some Debate then, some being of Opinion for a Defensive, some for an Offensive War; he did say the words related, as he conceives. That in a Discourse, the Earl of *Strafford* said these words, or words to this effect; *Your Majesty having tryed all wayes, and refused; in this case of extream necessity, and for the Safety of Your Kingdom and People, You are loose and absolved from all Rules of Government; You are acquitted before God and Men; You have an Army in Ireland; You may employ it to reduce this Kingdom.*

Being Asked, How long this was after the Parliament was Dissolved?

T t t

He

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He *Answered*, He cannot tell the time; but, it was suddenly after, or within few dayes after the dissolution of the Parliament.

Being Asked (on my Lord of *Clare's* motion) Whether these words, *You have an Army in Ireland*; did immediately follow these words, *You are Absolved*, &c.

He *Answered*, That, to his best remembrance, it did interpose; and, my Lord of *Strafford* did speak it once or twice.

And, to his best remembrance, at first it was agitated, to press the Offensive War; for, there were divers Reasons given, as the Kingdom stood then, that there should be no Offensive War; and, he must speak clearly, and plainly, he (the Examinant) did move for a Defensive War: For, the Subjects of *England*, how they stood affected to this War, they knew; and besides a breach of a Parliament, he thought it would but induce an ill effect. On these Controversions the words were spoken.

Mr. *Whitlock*,

Here Mr. *Whitlock* observed, That these words were spoken in *England*, on this occasion, Of the Kings trying His People, &c. which cannot be intended any other place but *England*, where the Parliament was broken, and where the King had tried his People.

Being Asked (on the motion of the Earl of *Southampton*) Whether he says positively, my Lord of *Strafford* did say these words, or words to that effect, or whether to his best remembrance?

He *Answered*, That he speaks positively, either those words, or words to that effect.

E. of *Clare*.

The Earl of *Clare* desiring further satisfaction, to the Question formerly proposed on this Motion, Whether he meant by this Kingdom, the Kingdom of *England*, or the Kingdom of *Scotland*?

L. H. Steward.

The Lord Steward put his Lordship in mind, That Sir *Henry Vane* testifies to the Words, not to the Interpretation.

Mr. *Maynard*.

And, Mr. *Maynard* said, The Question is put, Whether this Kingdom, be this Kingdom?

Mr. *Whitlock*,

And, so Mr. *Whitlock* said, They should conclude their Evidence, conceiving the last words spoken, to be very fully proved; and, by connexion with those other words proved before, he thinks it is very clear and manifest, That my Lord of *Strafford* had a strong Design and Endeavour, to subvert and change the Fundamental Laws and Government of *England*, and to bring in an Army upon us, to force this Kingdom to submit to an Arbitrary Power. That he shall not trouble their Lordships with repetition of words, nor with the Application of them, for indeed they be above Application; and, to aggravate them, were to allay them; they have in themselves more bitterness and horror, then he is able to express: and so he left them to their Lordships consideration and application, expecting my Lord of *Strafford's* Answer to them:

Only

Only he desired their Lordships, in one point, to hear what Mr. Treasurer can say further, concerning the breach of the last Parliament, and what Words and Messages he heard of, during the sitting of that Parliament, procured by my Lord of *Strafford*; unless their Lordships will reserve that, till the rest of the Witnesses come to morrow morning, and then they shall be ready to produce all relating to that point together.

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Whereupon liberty was granted for the reserving of them accordingly.

My Lord of *Strafford* did hereupon crave of their Lordships leave, to recollect his Notes, being (as he said) a little Distracted, how to give Answer to these things; for, diverse Articles are mingled together, which will make his Answer not so clear as otherwise he had hoped to have made it, but trusts he shall do it still.

E. of *Strafford*.

He desires leave to Answer Article by Article: and, how much horror soever this Gentleman is pleased to say, there is in these words, he trusts, before he goes out of the Room, to make it appear, that though there may be error of Judgment, yet nothing that may give offence, when the Antecedents and Consequents are brought together: and, that he shall give such an account, that (whether or no their Lordships will clear him, as to the Charge of an Indiscreet Man, he knows not) but, as for Treason to the King, and His People, he shall give clear satisfaction, that no such thing was spoken or intended.

His Lordship desired, He might be favoured with the sight of my Lord of *Northumberlands* Examinations.

But this, Mr *Glyn* opposed, and said, His Lordship being to Answer to matter of Fact, let him first say how it stands, and then prove it.

Mr. *Glyn*.

To which my Lord of *Strafford* Answered, That, in truth, they make much more of it then he did; for, he trusts, by the blessing of Almighty God, to give the Answer of an honest Man to all Objections, he will not say of a discreet Man; and, once for all, he humbly besought their Lordships (and so he knows in their Wisdom and Judgment they will) to look what is proved, and not to what is enforced on those proofs from these Gentlemen: For words pass, and may be easily mistaken, but their Lordships having regard only to what is Deposed, and that they were to guide themselves by that.

E. of *Strafford*.

After some Respit, my Lord of *Strafford* began to make his Defence as followeth.

That it will be very hard for him to know, in what order to Answer all the matters objected against him; But, the best course he can take for his own direction (and he trusts it shall not be displeasing to their Lordships) will be, to go over the Articles as they lie in order, and under every Article to give his own Proof, and to repeat all the Proofs prest against him for that Article.

The other day, an end was made of the 19th Article, but then likewise the 20th was entred into; so, the middle part of that Charge is answered already,

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already, touching words by him spoken at his last being in *Ireland*; and, to that he shall not need farther to Answer.

But, here is in it, that he did labour to Perswade, Incite, and Provoke to an Offensive War against the said Subjects of the Scotch Nation; and, to have been, by his Counsels, Actions, and Endeavors, a Principal Incendiary.

To prove this, they have offered first my Lord *Traquair's* Depositions; and, he craved leave to represent to their Lordships, How he conceived his testimony was delivered (*viz.*) That upon a Relation of his (the Lord *Traquair*) made at the Council-Board, he gave his Opinion as other their Lordships did; and, that it was condescended to by the Council-Board, That if the Commissioners of *Scotland* gave not satisfaction, that then the King might put himself in a posture of War; so that he gave only an Opinion as others did.

And that is proved (as he conceives) by my Lord *Traquair*; who, among other parts of his Testimony recited, sayes; That there was no difference in the main amongst the Votes: So that by both the Testimonies, it plainly appears, that his Opinion was no other then the Opinion of the rest; And, certainly, as that Opinion can never be charged on any of the rest of the Lords, in any kind whatsoever; so he trusts it shall never be charged upon him: for, he thinks, he is in a great safety and security, when he hath the concurrence of so many wiser persons then himself, in the Opinion he then deliver'd, and that is, for so much as was spoken at the Council-Board; And if it were needful (as he conceives it is not) to examine the persons that were there, it should appear he delivered no Vote at all at that time, but the Vote of the Board: But, it is clear in their own proofs, and their Lordships will (he hopes) justify him in their Judgments, when it comes to Sentence.

The next thing is the Deposition of my Lord *Morton*, concerning something spoken at *Tank*, at a Council there called; he met before the Assembly of the Great Council of the Peers, where, he conceives, and, as he remembers, he (the Earl of *Strafford*) spake something to this sence; That the unreasonable Demands of Subjects in Parliament, was a ground for the King to put Himself into a posture of War.

When this had been resolved by the Council of *England*, he conceives it no great Crime for him to say so: For, upon the Question put on those Demands, it was said, That it was fit for the King, to put Himself into a Posture of War, and into a Condition to reduce them by Force, if they could not be brought by fair means, to do their Allegiance and Duty to the King.

There is something more, that my Lord *Morton* sayes; That he (the Earl of *Strafford*) should say, It was a sufficient Cause, without hearing their Reasons, to Declare a War.

This he (my Lord of *Strafford*) conceives under favour, is but a single Testimony; And my Lord *Morton* gives himself the Answer; for he sayes the Reasons were not related when he was present, and therefore, in that my Lord of *Strafford* conceives there is little matter.

My Lord *Traquair* sayes one thing more, and that is, That the reasons were left to be alledged by the Scotch Commissioners: It is true, they were so: And

And my Lord *Morton* sayes, that he (the Defendant) should say, It was not matter of Religion that was the business, but they struck at the root of Government, and were to be punished by force. Article XX.

He further adds by way of Defence, That if he thought they struck at the root of Government, he thinks every man will say, he had reason to say, it was fit to reduce them by force.

But he said, he should speak further of these things anon, when he should represent, what Words are in respect of Deeds, and what difference there is between what a man Sayes and Does, in case of Treason.

But under favour, these two last are no part of his Charge, though he answers them, for he is not charged with speaking any thing to the King at *York*, the night before the Great Council, but only with speaking at the Council-Board on my Lord *Traquair's* relation; and this he conceives is all they bring against him, to convince him of the 20th Article, saving only the testimony of my Lord of *Northumberland*, and of Mr. Treasurers; And Mr. Treasurer says, That it being agitated, whether a Defensive or an offensive War were to be undertaken? he was for a defensive, and my Lord of *Strafford* for an offensive War.

He (the Deponent) cannot conceive, how this can conduce to make a Treason; If the War was resolved on, the Debate, whether an offensive or defensive, shall not be Reasonable: admit it to be as Mr. Treasurer sayes, Mr. Treasurer alledged his reason, and he (the Earl of *Strafford*) alledged his, and God forbid it should be Treason in one, or any other, they both doing their Duties, and delivering their Consciences according to their oaths; It was resolved as fit to reduce them, and whether by an offensive or defensive War, being a free Council, they were bound to deliver Judgements to a Master, that was so wise as to know what was best for his service, and so to dispose as he should think fit.

My Lord of *Northumberland* sayes, That he (the Earl of *Strafford*) advised to go on vigorously in an offensive War: Admit he did say so, it is not Treason, it was a free debate; many reasons were given, and for him to give his reasons one way, was as free from Crime or Offence, as for them to give their reasons another way.

They say that (as a chief Incendiary of the troubles between His Majesty and the Scotch) he seized divers Scotch Ships when he was in *Ireland*, and for this they have only Mr. *Barnwells* Testimony; and all he says, is, That Sir *Robert Loftus* told him, he had a Warrant to seize the Ships, and they did seize them accordingly, but by whose Warrant he doth not know.

But if your Lordships will know by whose Warrant it was, he shall give the best account he can, and offer some proofs.

Sir *Robert Loftus* was the Vice-Admiral of the Province of *Lemster*, himself was Vice-Admiral of the Province of *Munster*; and about that time the Lord Admiral sent Direction and Command to the Vice-Admiral of *Lemster* and *Munster*, to seize all the Scotch Ships then in those Ports; so that what was done, was done by the authority of my Lord Admiral; and if their Lordships asked Mr. *Slingsby*, he will say, that about that time there came these Commands, and by virtue thereof these Ships were stayed.

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Mr. *Slingsby* being Interrogated, whether about that time my Lord Admiral sent Warrants to the Vice-Admirals, to seize the Scotch Ships in their several Ports?

Slingsby, Witness.

He *Answered*, That he received the Letters, just as my Lord was going into *England*, and dispersed them to the Vice-Admirals, he executing that for *Munster* as Deputy to my Lord, and the Ships were stayed after my Lords going into *England*, and not before.

E. of *Strafford*.

Whence my Lord of *Strafford* concluded, That it appeared, that he hath not been an extraordinary stirrer of difference between the King and the Subject, he never desiring any thing but peace and quietness, and that all things might be ended (as he trusts they shall) with good understanding and perpetuity of affection amongst our selves, and with them.

And there his Lordship left the 20th Article, hoping he had fully and clearly satisfied their Lordships, as to any crime in it, but whether his Judgement did mislead him in an opinion, he will not dispute, but will confess willingly, That no man is more ready to mistake than himself.

His Lordship proceeds to the 21 Article, which his Lordship read.

This he said, he perceives is a particular they have much insisted on, but have not (as he conceives) offered any substantial proof for what they alledge.

The first proof of the 21 Article, was my Lord Primates Examination, wherein he says, That in a discourse betwixt them concerning the levying of money on the Subjects, in case of imminent necessity; his opinion was, the King might use his Prerogative as he pleases, but first it was best to try his Parliament.

This is the only Testimony in this particular; being *singularis Testis*, he knows it will weigh with their Lordships accordingly; and then it is no otherwise, but by way of Discourse and Argument; and how far that shall be layed to a mans Charge, he must submit, in regard of the reasons subsequent in the next Article, so that he will reserve himself to this point, till he comes thither. But the words fairly and clearly understood, abide a sence no way of danger to him that speaks them; For they are, *That the King may use his Prerogative as he pleases*, and the Kings pleasure is always just, and will not use his Prerogative, but justly and fairly, and for a man to think otherwise, were a higher offence.

Besides, many things are lawful, which if they were done to the uttermost of the Power, that his Prerogative, and the Law of the Land gives him, might be prejudicial to His Subjects; which notwithstanding, he in his goodness and discharge of the Trust, God Almighty hath put into him, never hath, nor will exercise, but suffer them to be employed for the Subjects advantage, according to the present occasion: And therefore to say he may use His Prerogative as he pleases, might be without prejudice to the Subject, and very lawful. But it is a greater offence by much, to think that

that the King will use his Prerogative otherwise, then as befits a Christian and pious King. Artic. XXI.

And therefore he hopes these words shall not be laid to his charge, as a signal crime, and of so high, deadly, and capital a nature as Treason.

The next proof offered, is my Lord *Conway*, and he sayes, on some discourse (which being private between friend and friend, neither of them thought they should come here to give an account of) My Lord *Conway* asked him where the means should be for the Supply of the Kings Army? He told him, in Parliament, and doubted not but the Parliament would supply His Majesty, so far he was from thinking there should be that misfortune, as the breach of that Parliament, but quite contrary.

And for the words, *That if the King should be denyed in just and lawful things, he might justifie before God and men, the seeking means to help himselfe, though it were against their will.* He must needs say, That to help a mans self is a very natural motion, for commonly a mans self is the last creature that leaves him, and that which is natural to every man, is natural to the King, who is accountable, not only for himself, but also for all his people.

The next is Mr. Treasurer: And he says, That the 5th of December was Twelvemonths, to the best of his Remembrance, upon a Proposition of a Parliament to the King, he (the Earl of *Strafford*) should say, That if the Parliament should not succeed, he would be ready to assist His Majesty any other way. He sees not where the heynousness of the words lies, nor where the venom is that should endanger him, as to his Life and Honor; And if he said he would assist His Majesty any other way, if it were needful, or any way conducing to his purpose, he is verily perswaded, Mr. Treasurer himself said as much, but that is not material, for he conceives it not blameable in either of them to have said so much; therefore he laies it not on him as a Recrimination. For the Question was, a Parliament or no Parliament; a Parliament was the desire of every man to settle the Commonwealth by, that they might *stare super vias antiquas*. And when they were moving His Majesty for a Parliament, for him to say, he would help any other way, doth always presuppose what must be presupposed, that it must be in all lawful ways; The King cannot command unlawful ways; and he hath that opinion of His Majesty, and of His Truth and Faithfulness, that He will not Command him any wayes, but lawful wayes, he having not carried himself in his Masters service so, as that he can have an opinion of him, that he will do any thing, but what is honourable and just, and therefore he hopes it is spoken without offence, being fairly and rightly understood, That is, of lawful ways, the ways the King could command, and the wayes himself could serve him in, being no other. And this is all they bring to prove that part of the 21 Article, that concerns his procuring of His Majesty to break the Parliament, and by Force and Power to raise Money on the Subjects; And this is all he sayes, and all they charge out of that Article.

This he must add, That when he sayes he will serve the King in any other ways; in all Debates whensoever he expressed himself to that purpose, he did ever in the conclusion end with this, That there was no safe nor sure expedient, to settle a right understanding between the King and His people, and to make both happy, but Parliaments; as shall appear clearly.

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clearly and plainly by that time he hath given his proofs, and so it will appear, he meant only lawful ways.

The next particular wherewith he is charged, is to procure the Parliament of the Kingdom of *Ireland*, to declare their assistance in a War against the Scots.

For that if their Lordships please to give him leave, he thinks the thing it self will best shew it self, and therefore he desired the Remonstrance of the Two Houses of Parliament in *Ireland* might be read.

And that of the Commons-House was read, being in effect,

The Declaration of the Commons-House there, Importing; Whereas they have with one consent, cleerly given to His Majesty, Four entire Subsidies towards His present preparations, to reduce His disaffected Subjects, the Covenanters in Scotland, to their due obedience; They still hope that His Majesties great Wisdom, and unexampled Clemency, may yet prevail with the worse affected of those His Subjects, to bring them to that conformity and submission, which by the Laws of God and Nature they owe to him: But if His Majesty shall be enforced to use His Power, to vindicate His just Authority: This House for themselves, and the Commons of this Kingdom, do profess, that their Zeal and Duty shall not stay here at these four Subsidies, but Humbly promise, That they will be ready with their Persons and Estates, to their uttermost ability for His Majesties future Supply in Parliament, as His great occasions, by the continuance of His Forces against that distemper shall require. This they pray, that it may be represented to His Majesty by the Lord Lieutenant, and Recorded as an Ordinance of Parliament, and published in Print as a Testimony to all the world and succeeding ages; That as this Kingdom hath the happiness to be governed by the best of Kings, so they desire to give cause, That he shall account this people amongst the best of His Subjects.

The Declaration of the Lords Spiritual and Temporal being of the same Tenor, was spared to be read.

Upon which my Lord of Strafford said, That if he had procured this Declaration, it had been no crime, considering what preceeded in the Kings Council there. But he says he hath no part in it, it was done with the greatest freedom and cheerfulness that ever he did, or shall see a thing of that nature done: It must be ascribed to that Nation, and the Zeal, Affection, and Cheerfulness, by which they discovered themselves to the Kings service, to which there was no need to invite them. But if he had had a part in it, he might have justified it, considering what precedent Instructions he had from the King, which he could shew, but that he is loath to take up their Lordships time.

The next thing he is charged withal is, for confederating with Sir George Ratcliffe, and together with him, traiterously conspiring, to employ the Army raised in *Ireland*, for the ruine and destruction of the Kingdom of *England*, and of His Majesties Subjects; and subverting the fundamental Laws of this Kingdom.

To which he saith, That truly if it be made appear, that he had so much as any such thought in his Breast, he should easily give Judgement against himself

himself, as not worthy to live. If he should confederate to the destruction of the Countrey that bore him, and consequently to the making of himself and his posterity little else than Vassals, who were born a free people, by the goodness of Almighty God, and under the Protection and Justice of the King, and particularly of His Majesty,

That he hath a heart that loves freedom as well as another man, and values it as highly, and in a modest and dutiful way, will go as far to defend it: And therefore certainly he is not altogether so probably to be thought a person that would go against it; Nay, he thinks that man doth the King the best service, that stands for the modest Propriety and Liberty of the Subject. It hath been once his opinion, which he learnt in the Honourable House of Commons, when he had the honor to sit there; it hath gone along with him in the whole course of his service to the Common-wealth, and by the Grace of God, he shall carry it to his Grave; That the Prerogative of the Crown, and Liberty of the Subject, should be equally looked upon, and served together, but not apart.

The proof they offer for this, is a strange manner of proof; For First they prove by Sir Robert King, what Sir George Ratcliffe said; they will not admit the examination of Sir George Ratcliffe, but here is a Report upon a Report; And what sayes this Gentleman? He tells of some time Sir George Ratcliffe said, which was not concerning him (the Defendant) and was impertinent for him to repeat. But the Deponent sayes in the conclusion, That as he understood them, there was some danger towards, &c.

Then comes my Lord Ranalaugh, and reports the words of Sir George Ratcliffe, and in conclusion sayes, That by some things he did gather, he had fears there might be some intendment, to employ that Army in Ireland, or some other place; but he (the Defendant) offers to their Lordships, That what Sir George Ratcliffe said, was nothing to him, and so could not charge him with it. The meanest Subject in the Kingdom cannot commit Treason by Letter of Attorney; and it is a priviledge which, though he hath the honor to be a Peer, he shall never desire that a Peer may do it by Proxy: Sir George Ratcliffe cannot speak, nor procure Treason for him; and being Sir George Ratcliffes words, they cannot be his (the Earl of Straffords) offence; and he hopes Sir George will answer them, as an honest Gentleman, and a Privy-Counsellor to the King, which he hath the honor to be in Ireland. And how Sir Robert King understood them, is as little, if not less to him (the Defendant) Sir Robert's understanding of a thing can make no crime to him (my Lord of Strafford) And for my Lord Ranalaugh's fears, he may take them back again, for it will be shewed they were groundless fears, viz. That this Army was intended for English ground: For him to imagine, that because my Lord of Strafford said, It was like to be a troublesome world, and that he was willing to sell his Land, therefore this Army should come into England; These be *Non sequiturs*, and fancies of his own, and there was no colour for such fears in his Lordship.

Besides, my Lord Ranalaugh was not acquainted with the Design, and therefore he might easily mistake, but others were acquainted with it, in such manner, as is expressed in his Answer, and which (my Lord said) he shall now declare, viz.

That there was no intention or purpose of bringing this Irish Army into England; And whereas to the Design he hath exprest in his Answer,

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of having two Honourable Persons to be made privy, and divers others to his Papers, he Humbly besought their Lordships to favour him so far, as to suffer him to ask a Question of three or four persons he shall produce, professing that there was never a thought in any mans heart that he knew, nor never a word in any mans mouth, that ever he heard, that any part of the Army should ever touch a foot on English ground, as some of their Lordships, and His Majesty knows (where his Lordship added) If he may with Reverence name His Majesty in that poor and distressed condition, wherein himself is; for he is not worthy of his Protection, being in this miserable Case, and therefore it was too much boldness for him, to name him; But his Lordship desired the benefit of reading my Lord of Northumberland's Examination, to the point of that Design.

Algernon, Earl of Northumberland, his Examination taken.

To the First Interrogatory he saith, That he hath often heard both His Majesty, and the Earl of *Strafford* mention the 8000 Foot, which were to be raised in *Ireland*; but to his best remembrance, he never heard any intention, of bringing the said 8000 Foot, or any part thereof into *England*; That the design of landing them on the West of *Scotland*, was often spoke of, and so resolved, as he believes.

To the Second he saith, He doth not remember, that ever he heard the Earl of *Strafford* speak or mention the reducing of the Subjects of *England* by the said Army in *Ireland*.

Here my Lord of *Strafford* desired their Lordships to take notice, that my Lord of *Northumberland* was one of the Committee of Eight for Scotch affairs.

The Lord Marq. *Hamilton* being Sworn and Interrogated, what he knew or believed, concerning the raising of 8000 Foot in *Ireland*; or whether he was privy to any intention of bringing the same, or any part of them into *England*?

Marquis *Hamilton* Witness.

His Lordship Answered, It is late, and time is precious to their Lordships, and so he shall answer as shortly as he can unto that Question. It is very true, His Majesty was Graciously pleased to acquaint him with the resolution of raising that Army of 8000 Foot; And it is true, that the resolution was, That these men should Land in the West of *Scotland*, about a certain Town, called *Ayre*, or where my Lord should find it most convenient. And for anything he (the Examinant) knows, there was no other design, he never heard of any, nor did he hear of the bringing of them into *England*, for any such use or end, or that they were ever to come to *England* at all.

Being asked whether he heard my Lord of *Strafford* speak any thing concerning the reducing of *England* by the Army?

His Lordship Answered, That he doth not remember my Lord of *Strafford* to have spoken any such words.

Sir

Sir Tho. Lucas, Sergeant-Major-General of the Horse of the King's Army in Ireland, who (as my Lord of Strafford said) being with him here in Candlemas-Term was 12 months, in his own Lodging at Covert-Garden, something passed between them, concerning the disposing of the 8000 Foot, and 1000 Horse, to what purpose they were raised.

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And being asked, What was the Intent and Circumstance of that discourse?

He Answered, That about the latter end of January 1639. my Lord of Strafford told him, an Army was to be raised in Ireland, another in England, and with the English Army a Regiment of Horse, whereof his (the Examinants) Troop should be one, and some Regiments of Foot, and these Foot and Horse were to joyn with the Irish Army; and that my Lord taking a Map of Scotland (which lay then in the Chamber) said, Now I must tell you the greatest secret in all the world, and pointed with his finger towards that part of Scotland, which lies on the Dunbar-Frith: and said, the Irish Army is to land here, and here I intend to take a Town (but he did not nominate the Town) and added, That he might the more easily do it, because the Scots would not expect his Landing there, but it is likely, will imagine the Landing of the Irish Army at Carlisle, or some other part of England. And his Lordship said further, That when he had taken this, he would strongly fortifie it, intending it for a Magazine of Ammunition and Victuals for the Irish Army, and so he should bring all the Countrey about to Contribution, even to Edenburgh, and when he is Landed, he (the Examinant) should have notice, and should joyn with the Irish Army; and that he would send these Horse, my Lord spake to him the Examinant, about 1000, (as he thinks) to convey him the Examinant to him.

My Lord of Strafford added, That the truth is, there were Foot-Regiments of Sir Tho. Wharton's, and Sir Arthur Tyringham's, and Sir Tho. Lucas's Regiment of 500 Horse; that (when the Irish were Landed in Scotland) were to be fetcht by Ships from St. Rees, and so to have joyned with the others. And it was supposed, 500 would have found no great difficulty on a suddain for such a march, and Sir Tho. Wharton, and Sir Arthur Tyringham came over purposely, to have persued his Design; by which it appears, there was no design to bring them to England; and so a strange Philosophy it was to bring it into any mans thoughts, it should be so.

Mr. Slingsby being Interrogated, What he knew concerning the Design of the Irish Army?

Mr. Slingsby,
Witness.

He Answered. That he had the honor to be sworn of the Council of War, and then the charge of making the whole Magazine of Ammunition and Provision for that Army, was conferred on him, That he repaired to England 10 days after my Lord, and persued his received Instructions, for making preparations of Artillery and Ammunition directed, which he got all shipp'd and ready

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ready about *July*; that the slow proceedings of the Irish Army did then retard his directions from my Lord-Lieutenant, for the dispatch away of those Ships which were ready.

That my Lord was pleased to tell him, he must provide some stores for a Magazine for maintainance of the Soldiers; that he was pleased to impart to him, That the Army was to Land in *Scotland* about *Aire*; That he thereupon proceeded to get a Map drawn of that Coast, and informed himself by that Map, and discoursed with Scotchmen in Town; That *Aire* was a barred Harbor, and that divers Ordinance were mounted to intercept the Landing, which he representing to my Lord-Lieutenant, my Lord directed him to take consideration of the burdens of the Ships, and whether they could be brought to ride near the Town, and that there might be provision of Flat-bottomm'd Boats to Land a good number at once; That he had a Warrant to receive 10 of the King's Flat-bottomm'd Boats, and 20 were provided by my Lord of *Antrim* the last year with Oars, and a floating Battery to secure the Landing of the men; That he had direction to obtain Warrants from my Lord of *Newport* for 10, 16, or 20 pieces of Ordinance, That at first he had 10, afterwards 6 more Iron pieces for fortification, which (as my Lord of *Strafford* had imparted to him the Examinant) were to fortifie the place after Landing at *Aire*, and were Shipt and sent away, but the Ships were not sent a good while after, by reason of the slow proceedings of the Army.

Being asked whether my Lord of *Strafford* did not give him direction to get a Coast-Map, to let him know the particular place, where he intended to Land?

He *Answered*, That he was particularly commanded to get a Platt drawn, and the party that drew it is in Town, and can testify, that he designed him.

Being asked, Whether he had not Commission and Instructions from my Lord of *Strafford* to discharge some Ships for the lessening of the Kings Charge, and to take only so many, as might be fit for the service?

He *Answered*, That he received that command from my Lord Lieutenant, to discharge most of the Ships, and none went about but them that were laden with Ammunition, and he received direction to take as few Ships as he could, to prevent charge to His Majesty, and discharged some 10 or 14 Flemish Ships that were freighted.

This my Lord of *Strafford* said, he offers, because he would not have it stick with any man, That in the things concerning the Kings Service, necessities were not ready at the time; therefore he would not have any thing asperse him; for the King never commanded him any thing, but (according to what he understood,) he did it faithfully, and never any thing miscarried.

Sir *William Pennyman* being asked, What my Lord of *Strafford*'s Answer was to him, when he told my Lord of some News scattered, that the Irish Army were intended for *England*?

He

He *Answered*, He did Ask such a Question, and remembers it (and may be, more particularly than my Lord doth) That he was newly come from his Quarter, and my Lord told him, That some of their Lordships were come with a Petition to the King, and, among other things, Petitioned, That the Irish Army should not come over, and wondered, their Lordships should Petition for that; for certainly, he should know that particular as much as their Lordships; and protested, before God, they were never intended to set foot on English Ground: That he (Sir *William Pennyman*) reply'd again, Certainly a great many more were in a great deal of darkness and error; for, he had asked Sir *Robert Farrar* the Reason the Irish Army did not come over, it being the conjecture of a great many they should Land at *Workington*; and his Lordship protested again, That he never knew they were to set foot on English ground.

He (the Defendant) confesseth, he said, The Army was to come to *Workington*, and joyn with the Kings Forces at *Barwick*; for, he had no reason to prepare the *scots* before-hand, but to disguise the business, though he never thought nor heard of any purpose under Heaven, that any of them should come on English Ground: And added, That he did not rest here, but acquainted my Lord of *Ormond* the Lieutenant-General of that Army, my Lord President of *Munster*, my Lord Justice *Burlace* (who now is General of the Artillery) that the Army was to be sent for *Knockfergus*, the Northerly part of *Ireland*, and the business to be for *Scotland*, not for *England*: And, the sending of all the Stores to the uttermost Confines, shews plainly and demonstratively, that the Design wrought there, howsoever it was pretended in another place.

The next thing brought into his Charge, is from the Mouth of his own Brother; and, it is narrowly sought after, even in his innermost friends, his Brother, his Table, his House, his Bed, in every place, for something to Convince him of that, which he thanks God he was never guilty of.

It is from a Testimony of Sir *Tho. Barrington*, who tells what passed between Sir *Thomas* and his Brother. But, in Answer thereunto, he offers, That what his Brother sayes is nothing to him: his Brother is a young Gentleman; and, in things that concern the Kings service, and where there lies the Obligation of an Oath, his Brother knows no more from him, than a meer stranger, nor shall, though he knows him well: and therefore he hopes this cannot convince him, when the whole course of his actions goes another way.

But, thus much he must say for his Brother, before he be Examined, That when it was first opened in the Parliament House, That one near to him in blood should say, *England would be never well till it be Conquer'd again*; he could not imagine who in the world it should be; And besought their Lordships, that, since he now comes to know it, his Brother may be Asked, Whether he knows any thing of it?

Sir *George Wentworth* being to speak as to the said Discourse, Mr. *Maynard* opposed this proceeding, as tending to the clearing of himself;

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Sir George
Wentworth.
Mr. Maynard.

self; supposing, that if they had examined him, whether he had spoken the words or no, their Lordships would not have suffered him to be examined to charge himself; and their Lordships Judgments were humbly demanded, whether if he be not to be examined on one side, he should be examined on the other? But Sir George Wentworth desiring to be heard for his own Justification, Mr. Maynard further offered, That being for his own Justification, he could not (under favour of their Lordships) be heard.

And their Lordships directed it accordingly.

E. of Strafford.

My Lord of *Strafford* offering to their Lordships, That it is easie to mistake words, that pass betwixt Man and Man, in ordinary and familiar Discourse; and, that Memories that can remember things, so long since, he protested are quicker and fresher then ever his was.

The Committee thereupon offered to confirm the Testimony by some other Circumstances; but, their Lordships seeming satisfied, it was forborn.

And so my Lord of *Strafford* concluded that part of the Charge, which concerned his Conspiring with Sir George Ratcliffe, to bring over the *Irish* Army to the prejudice of *England*; thinking, as he said, that he had clearly and evidently demonstrated it to be a truth, that will not be denied him, that the intendment was for no such purpose, and consequently there was no such Conspiracy to any such intent: and therefore left it to their Lordships further, and wiser, and nobler Considerations.

The next thing, is the words Charged to have been spoken after his return into *England*, to sundry persons, declaring his Opinion, That His Majesty should first try the Parliament here, and, if they did not supply Him according to His present exigency, He might use His Prerogative as He pleased, and to Levy what He needed.

And, all the Proove of these words, is the Testimony of my Lord Primate, whereunto he hath given that Answer already, that he hopes will be satisfactory.

As to the other part, That the King shall be acquitted before God and Men, if he take other course to supply Himself, though against the good will of His Subjects.

This he hath Answered already, and shall not need to repeat: But, he finds some things in the Proofes, which, whether they mean to make use of, to prove any of the words he knows not: and therefore he desired to touch on them a little.

The first proof hereof, Is the Testimony of Mr. Comptroller, that he, the (Earl of *Strafford*) should say something of deserting the King, but he remembers not the particulars: In which words he conceives there is nothing that can make him Criminal before their Lordships.

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The next is, of what my Lord of *Bristol* sayes ; whose Discourse came in upon some Difference between the Tenants of his Lordship (the Earl of *Bristol*) and his (the said Earl of *Strafford*) The discourse he remembers very well, my Lord of *Bristol* honouring him with a visit when he was sick ; and, he remembers, something was spoken to that effect and purpose, as it is in the Testimony. But, What is this as to the Charge laid against him ? In the Charge, there are only such words that may prejudice him, but nothing that may forfeit his Life, Estate, and Honor. As in the case of Extream and unavoidable necessitie, viz. The Invasion of a Foreign Enemy, when there is not time to call a Parliament. And, the King may in that case use, as the Common Parent of the Country, what power God Almighty hath given Him, for preserving Himself, and His People, for whom He is accomptable to Almighty God, is a thing quite different, from what is in an ordinary Case. He confesses, his opinion is, the King hath a power absolutely to use all possible means for the safety of the Publick. In these Cases He hath a Power given Him by God Almighty, that cannot be taken from Him by others ; neither, under favour, is He able to take it from Himself. If this be a fond and foolish Opinion, he craves their Lordships pardon ; but, he thinks, a man should not forfeit his Life and Honor, and Posterity, for a foolish Opinion ; God forbid that Common-Law, or Statute-Law, should make that Treason in any Man.

So that he acknowledges, There was some such discourse ; But, all things taken together, carries the State of the Question quite another way, then when taken to pieces.

My Lord of *Bristol's* Testimony sayes further. But my Lord of *Strafford* then said, The King was not to be Mastered by the frowardness or wilfulness of His People, or rather by the disaffection of some particular men.

To which words, he sayes, If he did remember them, he would acknowledge them : But, being then in that condition, delivered from a great and long sickness, infirm and weak, both in the powers of his mind, and faculties of his Body, if he be not able to recollect every thing, it is no marvel : But, he relies so much on the honor and nobleness of my Lord of *Bristol*, that seeing he sayes that he said it, he will not deny it, though he cannot remember it. But he must say withal, That his Testimony cannot work any thing towards him further, then a single Testimony can do in this case : and therefore, without offence, he shall desire, in this particular, to reserve that benefit to himself, that the Law in this case gives him, in such sort, as hereafter he shall be bold to put their Lordships in mind of, that is, how far a single testimony may work to the prejudice of a Man, charged with High Treason.

The next Testimony is my Lord of *Newburgh* ; That he heard me (the Defendant) say, or words to this effect, That seeing the Parliament had not supplied the King, His Majesty might take other Courses for the Defence of the Kingdom.

These

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These words I do (said the Defendant) acknowledge: And he trusts there is no offence in this saying; for, I conceive, that the King is not secluded, nor any one else, in a fair, and just, and an honourable way, from doing the best for himself, and his own preservation; but those other Courses that were intended, were just and lawful Courses; He must put that grain of salt into all the rest of his Discourse; that it was meant of no other wayes or Means, but such as were allowed by the Laws of the Land, and were fit for a gracious and pious King to use: and so understood, he knows no reason, but the King should be left to supply Himself, in all the fair and just ways he can, if the Parliament should not supply Him.

The next Testimony is my Lord of *Holland's*, and his Lordship sayes, That at Council-Table my Lord of *Strafford* should say, That the Parliament having deny'd the King, gave Him an advantage to supply Himself otherwayes.

But, he sayes still, other lawful wayes; It gave Him advantage to use His Prerogative in lawful wayes, further then otherwise perhaps out of his goodness, He would have done: Therefore, giving those words that Interpretation, he conceives they cannot be layd to him as a Charge of High-Treason.

The next is the Testimony of my Lord of *Northumberland*, who sayes, My Lord of *Strafford* said, That in case of necessity, and for Defence and safety of the Kingdom; if the People refuse, the King might do every thing for the Preservation of His People.

This brings it much to the other business before spoken of, it being in case of necessity, for Defence and Safety of the Kingdom, and to be used for preservation of the People; for, he must needs say, That is his Opinion, grounded upon that Maxim, *Salus Populi suprema Lex*; In these things when ordinary formes cannot be had (for when they may be had, to go to extraordinary, is not right) but, when the ordinary wayes fail, and the occasion gives no time, God forbid, but the King should employ the uttermost of His Power, Wisdom, and Courage, for preservation of Himself and His People; And, to say it with limitation, under favour, doth state the Question quite otherwayes, then if the words were taken alone, and not put together. But, that with these Limitations he spake, both these things, and diverse others, will more fully and clearly appear in the next succeeding Article: for, here he is charged with speaking things at large; but there at the Council-Board, and there it will come in properly.

At which time he shall desire to examine some of their Lordships, and, it shall appear, words of this Nature went alwayes in this sort from him, in case of a Foreign Invasion, in case of an Enemy actually entred, or to be entred, and not otherwise; which makes it another Question, then as by the Antecedents and Consequents it is laid in the Charge.

Besides, this offence is, but words spoken by way of Argument,

ment, in Common Discourse, betwixt Man and Man, without any further, or other proceeding, or Execution upon these words: and, Shall these be brought against a Man, and charged on him as High-Treason? God forbid that ever we should live to see such an Example in this Kingdom: A matter of infinite prejudice and danger to every Man; for, when that is done, no Man can be safe.

Is there any thing more ordinary, then for Men in Discourse, to seem to be of a Contrary Opinion to what they are, to invite another Man to give Reasons, perhaps to confirm him in his own Opinion, though he seems to Argue against it?

Is any thing more familiar, than for a Man to seem to be of an Opinion, to gain a Reason to confirm that Opinion which he is of, and contrary to that he seems to defend, by this means to get the strength of other Mens Reasons to confirm his own by?

Again, Is any thing more familiar in private Discourse, between Man and Man, than when one is so far on that side the Line, for the other to go as far himself, that he may meet the first Man in the midst? If a man meet with one that is as far below, as himself is above, and shall seem to maintain further, than his Reason and Belief carries him, to bring the other to moderation, Shall this be charged on him as a Treason?

If words spoken to Friends, in familiar Discourse, spoken in ones Chamber, spoken at ones Table, spoken in ones Sick-Bed, spoken, perhaps, to gain better Reason, to give himself more clear light and judgment, by reasoning; If these things shall be brought against a man, as Treason; this, under favour, takes away the Comfort of all Humane Society: By this means we shall be debarred of Speaking (the Principal Joy and Comfort of Society) with wise and good Men, to become wiser, and better our lives. If these things be strained to take away Life, and Honor, and all that is desirable, it will be a silent World; a City will become an Hermitage, and Sheep will be found amongst a Crowd and Press of People; and, no Man shall dare to impart his Solitary Thoughts, or Opinion, to his Friend and Neighbor, but thereby be debarred from consulting with wiser Men than himself, whereby he may understand the Law, wherewith he ought to be governed.

But, these be but words all the while; and, if he shall shew, that words of a higher nature, shall, by the Judgment of an English Parliament, be thought not to be Treason; Why should he think, or imagine, or fear, that their Lordships will make these indiscreet and idle Expressions of his, reach so high as his Head, and take the Comfort of his Life and Children from him.

No Statute makes Words Treason: and, if the Fundamental Law, the Common Law of the Land had made them Treason, surely the Parliament would never have set a Mulct upon them.

This Statute is, 1 Ed. 6. cap. 12. as followeth,

BE it Enacted by the Authority aforesaid, if any person or persons, do compass, and imagine, by open Preaching, express words, or saying, to depose, or deprive the King, His Heirs, or Successors, from His, or their Royal Estate, or Title, or openly publish, or say, by express words, or saying, That any other person, or persons,

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persons other then the King, His Heirs or Successors, of right ought to be, &c.

These be words of higher nature, than those charged upon himself; and yet the first offence is made but loss of Goods, and Imprisonment; for the second, loss of Lands, Goods, and Imprisonment; the third time is only made Treason.

He added, That their Lordships will never think these words, being flym-flam, that pass in a negligent manner betwixt Man and Man, shall ever be brought to be Treason.

And, whereas 25 E. 3. hath these words,

When a Man doth Compass, or Imagine the death of our Lord the King.

The very words are mentioned in 1 E. 6. *When a man doth compass, or imagine, by open Preaching, &c. to Depose the King.* And the first Statute provides, That if a Man shall compass the Death of the King, and be not thereof attainted by open Deed, it is not Treason. And, the Statute of H. 4. and 1 Mar. concur with this, and shew, That the intent of these was to take away the danger the Subject might incur, if bare words should be brought against him as Treason.

And, it hath been the Wisdom of their Lordships noble Ancestors, and this State, that they have alwayes endeavoured to conclude the danger that may fall on the Subject by Treason, that it might be limited and bounded, and that it might be so understood as to be avoided; and, he hopes, we shall never be so improvident, as to sharpen this two-edged Sword against our selves, and the faces of our Posterity, and to let the Lion loose to tear us all in pieces; for, if way be given to Arbitrary Treason, and to the Wits of Men, to work upon it, to prejudice or question Life, it would be very dangerous. And, he believes, That in this Hall there would be Actions of Treason that would fly as familiarly up and down, as Actions of Trespas: and therefore since by the goodness of our King, and the wisdom of our Ancestors, we have been thus provided for, why we should entangle our selves into the straights they could not endure, but endeavoured, by all means, to free themselves from the dangers that familiarly follow them, he cannot see.

To the First Part of the 23^d Article, concerning the last Parliament, the Gentlemen have reserved themselves till to morrow, and therefore he shall not need to speak to that, and so there will remain nothing for him to Answer, but the last part of the Act, with the next Charge, concerning words spoken at the Council-Board, or at the Committee for Scotch Affairs, viz. *That His Majesty having tried the Affections of His People, He was loose and absolved from all Rules of Government, and was to do everything that Power would admit; and, that His Majesty had tried all wayes, and was refused, and should be acquitted both before God and Man; and that he had an Army in Ireland, which he might employ to reduce this Kingdom to Obedience.*

Concerning this particular, he says, he remembers not anything, but what Mr. Treasurer is pleased to speak of: And, whereas Mr. Treasurer, as concerning that part, said, He loves to speak the truth; my Lord of Strafford said, He doubts not but he doth, for that we should all do, he is sure of it; But, Mr. Treasurer has reversed his Testimony, in saying, that he will not speak to the very words themselves, but to

to

to these, or words to the like effect; and, if he be not mistaken, and to the best of his remembrance, *That, His Majesty having tryed all wayes, and being refused, in this extream necessity, and, for the safety of the Kingdom, and People, He might do, &c. And, that Your Majesty hath an Army in Ireland, which You may employ (there, he said at first) And afterwards (which You may employ to this Kingdom.)* And, he saith, he doth not interpret these words, but gives the words clearly and plainly, as my Lord of Northumberland hath declared, and that it was soon after the Dissolution of the last Parliament, to his best remembrance, and at the Committee of 8; and, he thinks, my Lord spake them positively, or something to that effect.

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Now, whereas he calls in to his aid my Lord of Northumberland, under favour, my Lord of Northumberland declared no such words, but absolutely denies, in his Examination, that he ever heard my Lord of Strafford mention the reducing of England by an Irish Army: It is true, my Lord of Northumberland goes thus far, That he hath heard him say something, whereby he might conceive, there was intended some Course of raising Moneys by extraordinary wayes.

And, that my Lord of Strafford confesses is very true, for, if it were by borrowing 3 or 400000 l. it is an extraordinary way; the Kings Revenue could not serve these occasions, there must be other wayes, and Loan was one, and that fair, and honourable, and just.

So then, as to this Testimony, the Defendant offers to their Lordships, that he hath examined my Lord of Northumberland, and he knows no such thing; He hath examined my Lord Marquis of Hamilton, and his Lordship is pleased to say, He remembers no such thing at the Committee of 8.

He desired my Lord Treasurer might be Examined to the same Words.

The L. Treasurer being Asked, Whether ever he heard my Lord of Strafford in any private Council, or Debate with the King, tell him the said words?

L. Treasurer
Witness.

He Answered, That he never heard my Lord speak those words of the Irish Army, nor any thing like it; and he repeated, That he never heard his Lordship speak it in the manner proposed, nor any thing like it.

Being Asked (on Mr. Maynards motion) Whether he ever heard my Lord of Strafford say, The King was loose, and Absolved from all Government?

Mr. Maynard.

He Answered, That he desired time to consider of that. He remembers not any such thing, but he reserves himself for that.

L. Treasurer
Witness.

Being Asked on the like motion, Whether he heard my Lord of Strafford say any thing to that purpose, That the Parliament had deserted, or forsaken the King?

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He

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He *Answered*, That he remembers not that he heard any such thing.

Lord *Cottington* being Asked (on my Lord of *Strafford's* motion) Whether he heard my Lord of *Strafford* say such words, That the King had an Army in *Ireland*, and he might employ them to reduce this Kingdom?

L. *Cottington*.

He *Answered*, That he hath heard the Question heretofore, and is very confident he did never hear him say it in his hearing; and, that he hath a great deal of Reason to be confident of it.

Mr. *Maynard*

Being Asked (on Mr. *Maynard's* Motion) Whether he heard my Lord of *Strafford* say, That the King was Absolved, or Loose from all Rules of Government, or words to that effect?

L. *Cottington*.

He *Answered*, That, as he takes it, he hath been Asked to that Question too; and, he thinks, he never heard the words, for it was (as he thinks) a very absurd Proposition, and he should not have heard it with patience.

Being Asked, on the like motion, Whether he heard him say, The Parliament had forsaken, or denied, or deserted the King, or words to that effect?

He *Answered*, That for saying, The Parliament had not provided for the King, The Parliament was ended, and had not provided for the King; and, That the Parliament had not provided, or left the King without Money; It is very probable he did say it; and, he thinks, he did so, for it was the truth.

Being Asked, Whether he said, The Parliament had denied the King?

He *Answered*, That what his words were, It is a hard matter for him to say; That he said, The Parliament had denied, or left the King, he will not Swear.

Being Asked, on like motion, Whether he perswaded the King that he was to be supplied in extraordinary wayes?

He *Answered*, That he cannot Swear that neither.

Mr. *Maynard*.

Where Mr. *Maynard* observed, That my Lord of *Strafford* himself granted, and yet that's forgotten.

L. *Cottington*.

To which my Lord *Cottington Answered*, That if the Gentlemen would have heard him out, he should have given good satisfaction. He hath been Examined, Whether my Lord of *Strafford* used these words, *Extraordinary wayes*; and he cannot say he did; but he hath heard him say, The King ought to seek out all due and legal wayes, and to employ His Power, and Authority, and Prerogative, *Caste & Candidè*, he remembers these words very well.

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For close of his Defence to these words, That His Majesty had an Army in Ireland to reduce this Kingdom, witnessed by Mr. Treasurer. My Lord of *Strafford* said, Mens memories are weak, and the best may be mistaken, or misremember, and may think one man says that which another man says, or that a man says that, which in truth he did not say, as it is in this Case. Their Lordships have had all the light that is possible for him the Defendant to give them.

My Lord of *Northumberland* being examined on oath, sayes, he remembers not the words. My Lord Marquis *Hamilton* remembers them not. My Lord Treasurer of *England* remembers neither that, nor any thing like it; My Lord *Cottington* remembers no such thing, and is well assured, he never heard him say any such thing. Here are all that are left of the Committee, save my Lord of *Canterbury*, and him (the Defendant) cannot examine, otherwise he would.

Secretary *Windebank* is a little too far off to be heard at this time, and if their Lordships could ask him, whether the Defendant ever spake the words, on the faith of a Christian and a Gentleman, he will take his oath, he doth not think nor believe he ever spake them, but believes as constantly, as possible can be, that he never spake them; He would be loath to swear he did not, it being so long since: But when his words shall more particularly, and specially be remembered by another man, than by himself, he must commend that memory, that observed what he said, so perfectly, as to be able to give a better account of them than himself, the party that spake the words, or any man in the company besides.

My Lord further insisted, That this concerns him very nearly, for it would be a grievous charge that is on him by this means (though not in the intendment) of the Gentleman that urges it, who (he hopes wishes him well) if he should be thought to be an overthrower of the Liberties of the Subject by a foreign Army.

However, it is a single Testimony, and no more, and that single Testimony (without any prejudice to the Testimony) cannot rise in Judgment against him; Nay, he cannot be Indicted nor Arraigned of High Treason for it, by the Statutes of 1 E. 6. Ca. 12. the last Proviso of it, in these words.

BE it Enacted by the Authority aforesaid, That no Person or Persons after the First day of February next coming, shall be Indicted, Arraigned, Condemned, or Convicted of any offence of Treason, Petty-Treason, or Misprision of Treason, or any words before specified, after the First day of February, for which the said Offender or Speaker shall suffer any pain of Death, Imprisonment, Loss, Forfeiture of Goods, Lands, or Tenements, unless the said Offender, or Speaker, be accused by two sufficient and lawful Witnesses, or shall willingly without violence confess the same.

. And if their Lordships will give leave to consider the first part of the words, being fairly and indifferently interpreted, and with the secret reservations, men ought to speak things withal (for we ought to think just things, and that men will do nothing but fairly, and these are conditions implied, when we speak of the Sacred Majesty of Kings) let that be implied, it could not be High Treason to tell the King, That having tried the affections of his people, he was loose and absolved from all rules of Government; that is, all ordinary rules, and was to do every thing that
Power

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Power would admit; that is, that Power would lawfully admit; and that His Majesty had tryed all just and Honourable ways; and was refused, and should be acquitted both of God and men.

The last words, That the King had an Army in *Ireland*, which he might imploy to reduce this Kingdom, he denies; and if the other words be fairly interpreted with the reservations granted a man in that case, being spoken of so great a person as the King, nothing in them can turn so much to the prejudice of the Speaker.

But he desires leave to offer the Antecedents and Consequents of all that he said in Council, whereupon this is gathered; and then they find the Case otherwise stated, than as it is strained in the Charges. God forbid any man should be judged for words taken by pieces, here a word and there a word, where the Antecedent and Consequents are left out, for then Treason may be fetcht out of every word a man speaks; as for example, If one asks him whether he will go to such a place, he tells him by way of Answer, He will kill the King as soon; the other swears, he said, he would kill the King; it is very true indeed, but if the other words be added, it will then imply, That he will be sure not to kill the King, and therefore he will be sure not to go to the place. And if the words be taken together, he puts the Case thus; In case of absolute necessity, and upon a foreign Invasion of an enemy, when the enemy is either actually entred, or ready to enter, and when all other ordinary means fail, in this case there is a Trust left by Almighty God in the King, to employ the best and uttermost of his means, for the preserving of himself and his people, which, under favour, he cannot take away from himself. And as this did precede these words, so there were divers restrictions added to them; for he says, this must be done only, and upon no other pretence whatsoever, but for the preservation of the Common-wealth, that it must be done *Candidè, & Castè*, That if it were done on any other pretence whatsoever, than clearly and fairly, for preserving the Common-wealth, that would prove it to be oppressive and injurious, which otherwise rightly employed, would become a Pious and Christian King; and that when the present danger of the Common-wealth was, by the Wisdom, and Courage, and Power of the King prevented, and the publique Weal secured; In a time proper and fit, the King was obliged to vindicate the Property and Liberty of the Subject from any ill prejudice, that might fall from such a Precedent; and until the Prerogative of the Crown, and Liberty of the Subject are so bounded, that they may be rightly understood by King and People, (which cannot be without a Parliament) His Majesty and they can never look to be happy. Now if he shall make this appear to be true (as he hopes he shall) then he conceives he states their Lordships a quite different question, from that brought against him in the Charge, and brings an opinion so concluded, and shut up with restrictions, and with necessity, and with unavoidable danger that were otherwise to fall on the Common-wealth, as he trusts, cannot bring any manner of ill consequence whatsoever publicly or privately to any Creature.

For this purpose, he desired the favour to examine some of the Noble Lords present, and that First, the examinations of my Lord of *Northumberland* might be read, and they were read accordingly.

To the Third Interrogatory he saith, That the Earl of *Strafford* declared his opinion, That His Majesty might use his power when the Kingdom was in danger, or unavoidable necessity, or words to that effect.

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To the Fourth, That the said Earl did often say, That that power was to be used *Candidè & Castè*, and an account thereof should be given to the Parliament, that they might see it was only imployed to that use.

To the Sixth, That the said Earl of *Strafford* said, That this Kingdom could not be happy, but by good agreement in Parliament, between the King and His People.

My Lord of *Strafford* observed, That this was at the very same time, and let all the world judge, whether he had any intention to subvert the fundamental Laws of the Land, or no?

Next he desired my Lord Marquis of *Hamilton* might be examined to the Interrogatory my Lord of *Northumberland* was examined to.

Marquis *Hamilton* examined to the said Interrogatory, (*viz.*) Whether the said Earl of *Strafford* delivering his opinion, how far the King might use a Power after the breach of the late Parliament, did not put the Case when there was an unavoidable necessity, upon actual Invasion, or an Enemies Army ready to enter the Land?

Marq. Hamilton,
son, Witness,

His Lordship *Answered*, That he hears the Question, and remembers the same Question was asked him formerly on his oath, when he was Deponed, and he then said as now, he could not call to mind what my Lord said in that point.

Whether my Lord of *Strafford* did not say, That that Power was to be used *Candidè & Castè*, and if it were used for any other purpose, it would be unjust and oppressive?

His Lordship *Answered*, That he hath heard him use those words often to His Majesty, and on them, or immediately after, he declared his opinion, That it would never be happy in this Kingdom, till there be a right understanding between the King and his People, and that could not be, but by a Parliament.

Whether he did not say at that time, That the present danger provided for, and all which settled, the King was bound to preserve the Liberty and Propriety of the Subject, from the prejudice of such a precedent?

His Lordship *Answered*, He remembers something of that, but cannot positively say, because he cannot tell what the precedent was.

Being asked (on Mr. *Whitlock's* motion) what time he heard these words from my Lord of *Strafford*, in the said Second Question?

He *Answered*, professing that his memory is not good, and if it fails not him in this, he may boldly affirm, he heard my Lord of *Strafford* speak the words, both before, and since the Dissolution of the last Parliament.

Being

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E. of Strafford.

Being asked (on my Lord of Straffords motion) Whether His Majesty was pleased to declare to the Lords of the Council, That he had perfect and full intelligence, that the Scotch Army intended to march into England?

M. Hamilton.

He Answered, he remembers very well His Majesty had frequent Advertisements of the Scots intentions to come into England, he knows it very well, and he had not done his duty if he had concealed it, for he was one of them that told him of it.

L. Goring
Witness.

Lord Goring being examined to the First and Second Question, proposed to my Lord Marquis.

His Lordship Answered, That he remembers something to this purpose, and *Candidè & Castè* makes him call it to mind, but the particulars he cannot remember; *Candidè & Castè*, for using the Kings Power, he hath heard often.

Mr. German,
Witness.

Tho. German being examined to the same Question.

Answered, That he would be very loath to say any thing that doth not perfectly occur to his remembrance; he remembers that divers times at Council-Board, my Lord spake these words, *Candidè & Castè*, and he remembers them very perfectly, but what day and time, he remembers not; but he remembers very perfectly, he heard my Lord of Strafford say, it must be on an urgent and unavoidable occasion, that any by-course should be taken, or put in practice, but what day and time he cannot tell; To the exact words of the Interrogation he cannot say, but something to the sence, as he (the Examinant) delivers them.

Being asked whether my Lord of Strafford hath not concluded, That things will not be right, till there be a right understanding between the King and his People, or words to that effect?

He Answered, That he thinks no man hath the Honor to sit at that Board, but will give him that Testimony, that he hath often spoken, That the greatest happiness that can occur to the King and People, is the happy agreement and understanding between them.

Mr. Glyn.

Being asked (on Mr. Glyn's motion) Whether those words were used before the Dissolution of the Parliament, or since?

He Answered, To his best remembrance before, yet he doth not deny but they may be said since, that he must leave to the Lords, whose memories serve better to distinguish times.

L. Treasurer.

The Lord Treasurer being examined to the First Question, proposed to my Lord Marquis.

He Answered, That he doth not remember the discourse about his business.

Being asked to the Question Nov. 2. proposed to the Lord Marquis.

He

He *Answered*, That phraze of *Candidè & Castè*, he remembers very well, were used more than once; but whether they were applyed to this particular, he cannot speak: He remembers my Lord used the words in such a sence, and the interpretation of them was chastly and honestly, but the other part he cannot remember.

Being asked to the Question, *Nov. 2.* proposed to the Lord Marquis?

He *Answered*, That he remembers not any of it.

Lord *Cottington* being examined to the Question *Nov. 1.* proposed to the Lord Marquis?

L. *Cottington*:

He *Answered*, That if his Deposition be looked upon, it will be found, he did say, my Lord put the Case so, and he now says it again, he the Examinant did declare, and understand that my Lord—

Being asked to the Question *Nov. 2.* proposed to my Lord Marquis?

He *Answered*, That he thinks he hath answer'd this already; he remembers the words *Candidè & Castè*, and that the Power the King had for the preservation of Himself, His Crown, Posterity, and People, ought to be used *Candidè & Castè*, in all fair and just ways.

Being asked whether my Lord of *Strafford* did not say, That the King was bound after the present danger provided for, to free the Subject in Propriety and Liberty, from the prejudice of such a precedent?

He *Answered*, That he said the necessity being past, and the work done, the King ought to repair it, and not to leave any precedent, to the prejudice of His People.

Being asked, Whether my Lord did not say that in conclusion, all must be settled by Parliament, and till all the dispute betwixt the Prerogative of the Crown, and Liberty of the Subject be determined, neither King nor People should be happy?

He *Answered*, That he verily believes many of their Lordships have often heard him say it; He hath heard my Lord say it to the King at the Council-Table. It hath been always his position, and to himself the Examinant, he hath said often, both before the last Parliament, and after it was broken; and it was an ordinary discourse to His Majesty, That His Majesty could not be happy, till there were an happy Union betwixt Himself and the Parliament, and the Prerogative and Liberty of the Subjects were determined.

And my Lord of *Strafford* desired to have so much benefit of their Lordships Justice, as to have the Examinations of my Lord Keeper, (which are not yet come in to these points) reserved. And now he said he had

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stated to their Lordships truly and justly the Question, concerning these words that are by pieces and paches charged; and which (taking the whole contexture of the Discourse, from the beginning to the ending) represent them quite otherwise (as he conceives) than might seem to be enforced against him.

He offered this further to their Lordships, That they see plainly and clearly proved, that at all times, and frequently, he hath presumed (by His Majesties favour and good leave) to express himself, how necessary it is, for the happiness of the King and People, that all these matters of difference should be settled and bounded, and that by Parliament: and that till they were so bounded, neither His Majesty nor they could be happy: so that it was far from going against the antient grounds of Government, that have been here settled in that singular Providence and Wisdom of our Ancestors; and never shall he contribute any thing but to the maintainance and preservation of them, in all honest and honourable ways and means whatsoever; and if these words were spoken with that moderation and qualification, that the Power to be used must be a lawful Power, and the ways to be taken lawful ways, they were no way subject to exception.

Besides, there is one Argument that cleers the Intendment and meaning of the words, as he conceives, a great deal more prevalently, than if those words of lawful Power, and just and honourable ways, had been put in; And that is, that nothing hath been done by the King or the Council, against the Laws and Customs of the Realm, in pursuance of them, where it hath been any breach on any Liberty or Propriety of the Subject; What extraordinary Course hath been taken not warrantable by Law? None that he knows of; so that there being nothing but justly and fairly administred, the very Deed done, shews them to be spoken with that meaning, and so to be interpreted so much the rather, by how much doing well, is better than saying well; And the worst that can be made of them, they are but words and no more; and for the excuse of them, their Lordships well remember what he said concerning the Statute, they can never amount to Treason, and before they shall be brought to him in a Criminal Charge, he besought their Lordships to observe something he shall offer to them.

These words charged on him, were not wantonly, or unnecessarily spoken, or whispered in a corner, but they were spoken in full Council, where he was by the duty of his Oath obliged, to speak according to his Heart and Conscience, in all things concerning the Kings service; so that if he had forbore to speak what he conceived, for the benefit and advantage of the King and People (as he conceived this to be) he had been perjured towards God Almighty, and now it seems by the speaking of them, he is in danger to be a Traitor. If that necessity be put upon him, he thanks God, by his Blessing he hath learned not to stand in fear of him that can kill the Body; but he must stand in fear of him that can cast Body and Soul into Eternal pain. And if that be the question, That he must be a Traitor to Man, or perjured to God, he will be faithful to his Creator; and whatsoever shall befall him from a popular rage

rage, or his own weakness, he must leave it to God Almighty, and to their Lordships Honor and Justice.

Nothing is more common, than for a Counsellor to be of one opinion when he comes out of his Chamber, and to have that opinion he delivers, presently after confuted and cleared by the Wisdom and Prudence of his fellow-Counsellors, of better understanding than himself. And in this case (when opinions are thus delivered, and when there are alterations of these opinions, upon the very debate) that an opinion thus propounded, should rise in judgment, to convince a man of High Treason, it is very hard; nay, it is to be thought, that this was the very case in this particular. The opinion was, according to his Heart and Conscience given, and for any thing appears to their Lordships, something was said at that Board by others, wiser than himself, that altered him in that opinion; for there was never any thing moved by him, to reinforce that proposition, he rested quiet with it, he offered it not again; there was never any thing done in pursuance of that advice, either by himself, or any body else, which shews he did not press it, but was rather perswaded by better reason, that it was fit to be let alone. An opinion may make an Heretick, but he never heard before, that Opinion should make a Traitor. And though opinions may make an Heretick, yet they must be held pertinaciously, and against the light of a mans own conscience; here no pertinacy appears, no contestation, nothing done against the light of his Heart and Conscience, nothing of Obstinacy, Frowardness, and Perverseness; but simply (simply indeed in all respects) he did in the duty of his place, deliver his opinion modestly and fairly, and when he had done there, he left it, and persued it no further: so that such an Opinion as this, would not have made an Heretique, much less a Traitor.

In the last place, he humbly beseeches their Lordships not to make themselves so unhappy, as to disable themselves and their Children, from undergoing the great Charge and Trust of the Common-wealth. Their Lordships have it from their Fathers, they are born to great thoughts, and are nursed up for the great and weighty employments of the Kingdom; and God forbid that any but themselves, *Ceteris paribus*, should have this great Trust, that their Birth and Breeding, and Ranks procure for them, under the Kings Goodness.

But let this be admitted, That a Counsellor delivering his opinion under an oath of Secresie and Faithfulness at Council-Table *Candidè & Castè* with others, shall upon his mistaking, or not knowing of the Law, be brought into question, and every word that passeth from him, out of a sincere and noble intention, shall be drawn against him, for the attainting and convicting himself, his Children, and Posterity; under favour, after this shall be so, he doth not know any wise and noble person of fortune, that will upon such perilous and unsafe terms, adventure to be a Counsellor to the King: and therefore if their Lordships put these hard strains, and tortures upon those that are the Counsellors of State to His Majesty, when they speak nothing but according to their Hearts and Consciences, (for we that are not of the profession of the Law, are not bound to speak the Law, we can tell what in our Hearts and Consciences we conceive Honourable and Just, but what's legal, is another mans business.) This shall disable their Lordships from those great Employments, to which their Birth and Thoughts do breed them, and make them more incapable than any other inferior Subjects: And therefore he beseeches their Lordships to look

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on him so, that his misfortune may not bring an inconvenience upon themselves. And so he besought their Lordships to pardon what he had said, with a great deal of disorder, and if their Lordships take him into consideration, they will find that nothing hath appeared in him, but what is Honest, Just, and Faithful to King and People; though they were not so advised and discreet, and well weighed as they ought to be, yet he hoped their Lordships are so Honourable and Good, as not to lay their charge to him as High Treason.

To the 24th Article, he said he made no Answer, there being nothing spoken to it; And so he concluded his Defence to these Articles.

Mr. Whitlock did thereunto Reply in substance as followeth.

Mr. Whitlock's
Reply.

That their Lordships have heard with a great deal of patience, this long Defence made by my Lord of *Strafford*, and desired the like patience from their Lordships, in hearing the Reply, which he doubts not but they shall obtain, and give a clear Answer to all my Lord of *Strafford* hath spoken in his own Defence; and how that it comes not at all to excuse him in this case.

My Lord is pleased to make it his suit, that their Lordships will not be guided by enforcement of words against him, but by the words themselves; and that Mr. *Whitlock* desired likewise, presuming that their Lordships will not be guided by my Lord of *Strafford's* interpretation of these words to another sense, than the words bear, but judge according to the clear understanding, and common signification of them, further than which he will not strain them.

Whereas my Lord excuses his words, that the Demands by the Scotch in their Parliament, were a sufficient ground of War, because he gave no other opinion than the rest of the Council then did; their Lordships may be pleased to observe, That my Lord *Traquair* testifies, that some of the Council were of another opinion at that time, and that these words were spoken before the reason of those Demands were given; and that there was a clear difference betwixt my Lord of *Strafford's* advice, and the advice of the rest: It is evident by the opinion delivered by him long before that time in sentencing of Mr. *Stuart* in *Ireland*, where, after the pacification, he was pleased to call the Scots Rebels and Traitors, and that he would root them out Stock and Branch that took not the Oath; And he said in his Answer, That when he came out of *Ireland* into *England*, he found the affairs of *Scotland* so distempered, that he thought fit to reduce the Kings Subjects there by force.

His Lordship says, That if the Demands struck at the root of Government, then it was fit to say, they should be reduced by force; But the words were spoken before the reasons of the Demands were known, and before he could know how they could be warranted by the Laws of that Kingdom; and it is part of the Charge of the House of Commons, That he said *They struck at the root of Government*, which it appears they did not; for those very Demands, against which my Lord of *Strafford* delivered his opinion, are since enacted by the Parliament of *Scotland*, and confirmed by His Majesties Royal Authority in the Treaty, which is very well known to divers of their Lordships sitting here.

My

My Lord sayes, It was first resolved a War should be had; and then, for him to debate, Whether an Offensive or Defensive War, is no Crime: but, that receives a clear Answer; for, it was his Resolution, his Advice, That there should be a War, and an Offensive War; which shewes his Design against the Kingdom of Scotland.

My Lord labours to prove, That the seising of the Scotch Ships was not by his Warrant, but by Warrants otherwise procured. That was not insisted on in the Charge, and therefore they will not insist upon it in the Reply, there is enough besides.

My Lord is further pleased to say, That there is no substantial or concluding prooffe of his intent, that the Parliament should be only called, to try whether there would be supply given or no; and, that is only deposed by my Lord Primate, a single Testimony: But, my Lord Primate concurs with others, in the same sence and meaning.

To my Lord *Conwayes* Testimony, my Lord sayes, That, for the King to help Himself, is a Natural Motion, and proper to every one: But, the other words of my Lord *Conwayes* Testimony, That the King might help and supply Himself, though it were against the will of His Subjects, must be understood, not of a Natural, but a violent motion, and it appears to be my Lord of *Straffords* Design to have it so.

He comes to the Testimony of my Lord Treasurer, and sayes, That doth not at all touch him, that he promised to assist the King in any other way, in case the Parliament did not succeed.

But, this proves his intent, That if the Parliament were dissolved (as he was willing it should, as it will afterwards appear) he would assist the King in any other way whatsoever: He took a good Pattern, *Stare super vias antiquas*, and we shall prove that too; but, this was not *via antiqua* of Parliaments, to propose Supplies in the first place, and to put off consideration of grievances, to urge nothing but to give to the King; and, before a Resolution, whether they would give or not, to informe against the Parliament by Misinformation.

My Lord mentions the Declaration of the House of Commons in *Ireland*, concerning the giving of Four Subsidies for the Kings supply of the War with *Scotland*, which is in the Charge, but was not insisted upon; But, by shewing this, my Lord of *Strafford* hath procured that which is likewise in the Charge, That the Parliament of *Ireland* did engage themselves in the War against *Scotland*, and by the Preamble of his Answer,

This was in my Lord of *Straffords* Knowledge, and may be easily proved to be by his Procurement, being the Chief Governor there.

He sayes, That had he ever entertained such thought, as the words proved, import, he should give Judgment against himself: But, as no mans thoughts can be proved but by his words and actions, so the words proved do manifest, that his thoughts were no other, and shew clearly his intention, to bring in an Army on us to reduce this Kingdom.

My

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XXII.

My Lord calls Sir Robert Kings Testimony a Report on a Report; and, sayes the like of the Testimony of my Lord Ranalagh, which shall be answered, when he comes to lay the whole matter together, according to the course of opening the Articles.

Diverse Witnesses his Lordship produces, to prove, that the 8000 Foot raised in *Ireland*, were designed for *Scotland*, and particularly for the Town of *Aire*, which is very improbable; for that Town (as was informed, and will be proved) was, at that time, very well fortified; and the Coasts thereof, and the Haven so barred, and narrow, that one of my Lord of *Straffords* own Witnesses says, there could be no probability of Landing an Army there: The like may be said of the *Frith* of *Dunbarton*, that was Fortified long before. And, if their Lordships repair to some part of my Lord of *Straffords* Answer, where he sayes, they were to be landed in some places near the Country of my Lord of *Argile*, to divert him: These places are so far from his Country, and such Armes of the Sea, and unpassable Mountains are interposed, that they could not be landed there with any intention to go to *Argyles* Country.

But, admit there were a primary intention of this Army in some part of *Scotland*, the Witnesses speak onely to what was intended before the Army was raised; But, when the Army was on foot, my Lord of *Straffords* intention might be changed, and it seems it was; for he laboured to perswade His Majesty, to make use of it to reduce this Kingdom.

He sayes, The Testimony touching Sir George Wentworths words is single, and spoken by his Brother, and could not reach him; but, though one Witness testifies the words, yet it may be made appear to their Lordships, that presently after the words spoken, Sir Tho. Barrington related them to other Gentlemen, who are ready to testify, that he so related them.

But, their Lordships seeming satisfied in that point, directed him to proceed.

Next my Lord Discourses of my Lord of *Bristols* Testimony, and the differences of opinion between them, touching the summoning of a Parliament. But, my Lord of *Bristol* proves the following words, That the King was not to suffer himself to be mastered by the frowardness of His People, &c. and, to these, no Answer is given.

To which, Mr. *Whitlock* said, he would further answer in the General Reply; And so for the words proved by my Lord of *Newbrough*, my Lord of *Holland*, and diverse other Noble Lords of this House.

My Lord of *Strafford* was pleased to mention the Statute of 1 E. 6. ca. 12. where, to compass by Preaching, or saying, to deprive the King is not for the first offence Treason, though words of a more transcendent and high nature; and hence he inferr'd, that the words charged on him are not Treason.

But that Statute is onely of Treasons spoken of the King, but not of Words and Counsels, that advise the thing to be done; And, there is no Question, but at this day, for any man to Advise and Counsel the Destruction of the King, is High-Treason, notwithstanding that Statute. These words

words charged on my Lord, are a Declaration of his intention, to subvert the Laws and Government of the Kingdom, and, the use made of the words, is not, that they are in themselves Treason, but as they prove that intention. But, this is the work of another time, being matter of Law, and therefore Mr. *Whitlock* said, he would say no more to it now, neither doth it require his Answer, nor is it at all to this business.

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My Lord did much insist on it, that there was no mention by any of the Lords that were of the Committee for the Scotch Affairs, concerning the words of bringing the Army out of *Ireland*, to reduce this Kingdom, diverse of their Lordships being to that point examined: But, Mr. Treasurer Swears in the Affirmative, he heard the words spoken; and, when they come to sum up the rest of these words, and applying them to this, shew the dependance they have one upon another, their Lordships will see plainly, that must be his intention, and that there could be no other interpretation of his words: It is possible, for some that were at the Council, not to hear the words, and yet that disproves not a Witness, that says in the Affirmative, he did hear the words. And, though some of my Lords do not remember some other passages, as, That His Majesty was loose, and absolved from all Rules of Government, yet that is proved by two Witnesses; and, though the rest remember them not, yet that stands clearly proved.

Other things, which some of their Lordships did not remember, were proved by three Witnesses: Whence it may be deduced, that, what Mr. Treasurer deposes is to be believed, though some of my Lords that were present did not remember it.

By making a sum and Collection of the words, and comparing one with another, it will appear very clear, that my Lord of *Strafford's* intention was, to bring in that Army to reduce this Kingdom.

And first, their Lordships will remember the words that passed betwixt Sir *George Ratcliffe*, and Sir *Robert King*; and, the Relation between my Lord of *Strafford* and Sir *George Ratcliffe*; And, before my Lord of *Strafford* came out of *Ireland*, he gave direction to Sir *George Ratcliffe*; and afterwards, on a Discourse, Sir *Robert* saying, how my Lord of *Strafford*, and how the said Sir *George Ratcliffe* had least cause to desire a War; Sir *George* replied, We are engaged (not himself onely) but *We* (speaking of my Lord of *Strafford*) are engaged in a War: and, Sir *George* says further, that the King hath 30000 Men, and 400000 *l.* in his Purse, and a Sword by His Side, and if he wanted Money, who would pity Him? which cannot be intended but by raising of Money on the Subjects of *England*.

But besides, their Lordships may remember the expression of my Lord *Ranalaugh*, and Sir *Robert King*, that these Forces were intended to be used for raising Moneys here; and, that my Lord of *Strafford* offers to sell his Land in *Ireland*. Besides, his Brother said, the Commonwealth is sick of Peace, and would not be well till it was Conquer'd again, which must imply Force, and an Army to do it.

It is a Proof of my Lord of *Strafford's* intention, that a Parliament should be summon'd to give Supply, and, if not, that then it should be Dissolyed, and other Courses should be taken; My Lord Primates Deposition is, that, in case of necessity, His Majesty might use His Prerogative, might levy what he needed, only first it was fit to try the Parliament, and,

if

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if that succeeded not, then to use his Prerogative as he pleases.

L. Conway.

My Lord Conway proves the same Intention; my Lord of *Strafford* saying to him, That if the Parliament supplied not the King, His Majesty would be acquitted before God and Men, if he took some other course to supply himself, though against the will of His Subjects; And, it cannot be intended to be against their will, but it must be by force; for, if it be with their will, it is voluntary.

And Mr. Treasurer proves, that my Lord would be ready to serve the King any other way; that is, by Force, by Armes, or any way whatsoever.

Their Lordships may remember his words to His Majesty, That the Parliament had denyed to supply Him; that they had forsaken Him; which was onely to incense His Majesty against Parliaments.

He told my Lord of *Bristol*, in that Discourse with him, that His Majesty was not to suffer Himself to be Mastered with the frowardness and undutifulness of His People: and, if His Majesty was not to suffer Himself to be Mastered by them, but to Master them, it cannot be, but by strength of others.

My Lord of *Holland* proves more fully (and my Lord of *Newbrough* concurs with him) that His Majesty had an Advantage, to supply Himself other wayes, because the Parliament had denyed to supply Him: And there be no other wayes (save Parliament-wayes) but extraordinary, and illegal wayes.

My Lord of *Strafford* hath much laboured, to answer and qualifie the last words, but he comes short of it; And those words are as fearful, and of as high a nature, as can be expressed by a Subject, and by a Counsellor to his Sovereign.

The first part of the said last words, are clearly proved by the Testimony of my Lord of *Northumberland* and Mr. Treasurer, That the King had tryed His People, and was Absolved from all Rules of Government: That He was to do all that Power would admit, that he had tryed all wayes and was refused, and should be acquitted before God and men.

The latter part Mr. Treasurer onely reaches to, that His Majesty had an Army in *Ireland*, which He might imploy to reduce this Kingdom: and comparing these words with the former, if the King be absolved from all Rules of Government, Which way can that Power be used, but by bringing in an Army, the latter words being dependant and consequent to the former? and, if they be compared together, and sum'd up, their Lordships will be satisfied, that this was the intention of my Lord of *Strafford*, to bring an Army out of *Ireland* into this Kingdom to reduce it, and that his purpose was, by a strong hand, to compel the Subjects of the Kingdom, to submit to an Arbitrary Power, and whatsoever should be imposed on them.

And

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And whereas my Lord makes it a great part of his excuse, that nothing was executed, upon this Counsel, we must give humble thanks to His Majesty, for if his Counsel might have taken place, no doubt but that had been done, which was laboured and advised to be done; But a Gracious Sovereign would not take hold on those Counsels, but rejected them, as to that, though so much was done on other Counsels, and Misinformations of my Lord of *Strafford*, as my Lord of *Strafford* will never be able to justifie.

That nothing is done, is no excuse to him, It is an Obligation to the Kings Subjects, the more to Love and Honor him; But, it shews clearly, my Lord of *Strafford*'s intention, if it might have taken place, to have changed the Lawes, to have brought an Army upon us, and, by them, Compel us to submit to an Arbitrary Power.

And, so Mr. *Whitlock* concluded, that he should trouble their Lordships no further at this time, having answered most of the things my Lord of *Strafford* hath insisted on, and if he hath forgotten them, he hopes he shall be holpen by some of his Colleagues; But, he supposes, it appears clearly, that my Lord of *Strafford*'s intentions were, to subvert the Laws, to set a Division betwixt the King and His People; and, though His Lordship is pleased to make something slight of it, as not to be matter of Treason; yet, this compared with his other Actions, declaring his Intention and Designs, it proves it not onely to be *Crimen lesæ Majestatis*, but also *Reipublicæ*.

Mr. *Maynard* seconded Mr. *Whitlock*, and said, That something he should presume to add, My Lord of *Strafford* excuses himself, because he was not alone in the Council against *Scotland*; Thus far he was alone, the rest concluded upon a Hypothetical proposition: if the Demands were unreasonable, then a War was fit. But, in two Propositions he was a lone;

Mr. Maynard.

First, That before the Reasons were heard, the unreasonable Demands of Subjects in Parliament, were a sufficient ground for the King, to put Himself into a Posture of War;

And Secondly, That these Demands were not matter of Religion, but struck at the Root of Government.

And, when he Answers that Point, he takes it for granted, That if he says they struck at the Root of Government, the Resolution was just.

In his Defence, he insists upon two things, matter of Excuse, and matter of weakning of the Testimonies produced.

For the matter of Excuse, of what he said to the King in private, it was testified onely by one, who was then present, and at other times in Council, viz. That there would be no happiness till there was a good Agreement betwixt King and People.

Whence Mr. *Maynard* observed, That they think not, that all he spake is nought; but, they produce Prooves, that he did speak nought; they think him not so unwise upon all occasions, to speak words of so high a Consequence: He hath taken another course to weaken their Testimonies; and, nothing is so strong, but (if that course be allowed that he uses) it will take off the strength of it.

Mr. *Maynard* said, He hath heard of breaking a thing to pieces, by taking to pieces, and if my Lord of *Strafford* shall take every parcel of the proove,

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proove,

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proof, and say this is a single Testimony, This is matter of discourse; This I speak at my Table; This in my Chamber; taking them asunder, he may answer them asunder: But if he hath in his Chamber, and at Council, and in Bed, and on all occasions presumed to run so high on the Liberty of the Subject, and then think, that because he speaks sometimes good words, all must be paistered up; he must give us leave to differ from him in that.

The Witnesses say he spake the words *Candidè & Castè*, some speak to the occasion, most say they were spoken at several times, both before and after the Parliament, and if they must be applyed only to what is lawful, what need these *Adverbs* to make it good? Truly he may say it was done *Cantè*, it was not done *Castè* in this Cause.

For that my Lord hath said, divers Witnesses were by, and heard not the words depofed by Mr. Treasurer, What Argument is this? That when divers are by, that which divers do not remember is not true? My Lord confesses himself sometimes, that Witnesses do not remember all things, therefore it may be true, that something may be spoken, which Witnesses remember not, else he confesses against himself which is not true.

There be other things wherein the Witnesses do concurr, and that my Lord speaks not to, though he speaks to that which my Lord of *Northumberland* and the rest do not remember: and therefore it is no argument to say, some were by and heard not what was spoken.

The sum of the Case will come to this, There was a Parliament sitting, he a little before casts out words, about raising Money, where he must have *Adverbs* to make it good; he must raise Money in an extraordinary way, the Parliament is broken, and a necessity is made, and Soldiers must be brought in, to make good these ways: now take these asunder, and my Lord of *Strafford* will make it a good Action; But as Mr. *Maynard* shewed, they conceive all my Lord of *Strafford* hath done, ended in that design; he began it before he came over; and though they believe His Majesty designed it for *Scotland*, they speak not what His Majesty meant, but what my Lord of *Strafford* counselled, that is the thing he is charged with.

And whereas his friends, and those nearest him, spoke of this Fire that hath burst out, he sayes, this concerns him not; Indeed he is very unhappy, if his Brother, or bosome friend must be the man that must accuse him. But *Noscitur ex Comite qui non cognoscitur ex se*. It comes out of his own mouth, and his friends expressions. When Sir *George Ratcliffe* is asked how Money will be had? He Answered, We will make peace with the Scots, and that is the worst of evils. Surely, he that thought a Peace betwixt the two Nations the worst of evils, deserves not the applause that hath been given him in this place; And if that comes to pass, this must have relation to that of which he spake, which is the levying of Money by force, the King hath 30000 Men, and 400000 l in his Purse, and a Sword by his side, and if he wants Money, who would pity him? Lastly, My Lord of *Strafford* came to speak of their Lordships priviledge, that if words

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spoken in Council should be pressed, it would bring a disability on their Noble Lordships, to enter into those employments; but, that can be no excuse, to say, that he must take notice of things honourable; and, for every thing that a Man speaks at Council, he must not be brought into Question.

It is not every thing, nor every thing that is illegal, that is brought into Question; But, if he advise to bring an Army on us, to Master all we have, and he must not be questioned, Where then are their Lordships Priviledges? and, Who knows how soon there may be no difference betwixt a Peer and another?

In all this Defence, my Lord of *Strafford* hath not offered any Defence for the Scandal which he put upon the last Parliament; which, to the last breath, to the last minute of their Continuance, did advise and consult of the Supply of His Majesty: yet, he calls this, a denying of the King; a forsaking of the King; an undutiful stubbornness; and, what else his high Speech and Eloquence pleases, to misconstrue their Actions with.

To that Stat. 1 E. 6. Mr. *Maynard* said, He shall not need to give any further Answer; for, if it be looked to, it will appear nothing to concern this Case, there being great difference between words spoken with relation to action; For, these be Counsels, and if a Man shall Counsel the death of the King, Will any Man doubt whether this be Treason? surely no man will doubt it, that knowes the Laws of *England*.

Mr. Maynard

The Treason is not in his words, but in his wicked Counsels: For (under favor) if it be true that he spake them, they may be called wicked; and, that it is true, they have offered proof, and so he left it to their Lordships.

Mr. *Glyn* desired to add a word, it concerning the Kingdom and Peers; Their Lordships observe, how my Lord of *Strafford* stands questioned for subverting of the Laws, and for designing to introduce an Arbitrary Government; the other day his design appeared, in the exercising of a Tyrannical Power over the Persons, Estates, and Liberties of the Kings Subjects; and, though a design was in practice, and something put in execution, yet there was something left, whereby that Treason might be raised to a higher strain; For that proofs were produced the other day, the exercise of this Tyrannical power in his person, which was the stopping of the Streams of Justice, but, the Fountain of Justice was still uncorrupted, and hope left, and God be thanked we have hope still.

Mr. Glyn.

But, this dayes work is to prove, That he ascended the Throne, and, by his ill Counsels, the Venome he had hatcht in his own heart, he endeavored to infuse into the Kings Person, to make Him of the same opinion with himself; and that is to endeavor to corrupt the Fountain; But, God be thanked he hath met with a Gracious King, upon whom he cannot prevail.

The words laid to his Charge, are very many; That he should tell the King, he was Absolved from all Rules of Government, and, that he had an Army in *Ireland*, which he might employ to reduce this Kingdom:

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The latter part of the words he hath endeavoured to answer, and the former part proved by positive Witnesses, which he hath not given answer to.

For the latter, that concerns the Irish Army, Mr. Glynn said, He shall not need to put their Lordships in mind of any thing said; but whereas my Lord sayes, They are proved by one Witness only, if your Lordships revise their Notes, they shall find them prov'd by many Witnesses.

When he was not accused by the Commons, he tells Sir William Pennyman at York, he did intend to bring the Army into England, but there was *Vox populi*, and that's a horrid Witness.

My Lord Cottington, one of the Honourable persons present, when the words were spoken, testifies to their Lordships, That he remembers my Lord of Strafford told the King, That after things were settled, he was bound to repair the property of the Subject, and this, under favour, proves something; for if some Counsel and advice were not given, that there should be an invasion on the property, what should engage him to tell the King, he should restore it?

L. Cottington.

Here my Lord Cottington explained himself, saying, That his meaning was, he hath often heard my Lord say, The King and People would never be happy, till there was a good agreement.

Mr. Glynn.

Mr. Glynn proceeded, that if their Lordships please to look on my Lord of Strafford's Interrogatory, they shall find it asked his Lordship, Whether he did not tell the King, that he should make restitution of the Subjects property, when the danger was over; and why should his Conscience aske such a question, unless there were Counsel given, to invade the propriety of the Subject?

Your Lordships remember the words of Sir George Wentworth, (which Mr. Glynn said he will not repeat) and when my Lord was fixed by the words of his Brother, he said, That tho he be my Brother, I do not use to communicate my Counsels to him, and that I am on my oath to conceal; yet this great Counsel he did impart to Mr. Slingsby for his own purpose, and to Sir William Pennyman.

And so having spoken to the latter part of the words, (the reducing of the Subjects of England by the Irish Army) to shew that it stands not only on a single proof, but if the whole be recollected together, there be many things concurring to the positive proof thereof.

Mr. Glynn put their Lordships in mind of the other words, to which two great Witnesses concur, and no Answer at all is given, viz. That the Parliament denied Supply, and the King is loose, and absolved from all rules of Government; put the other words out of doors (as they are not) if the King be loose from all rules of Government, is he not loose to doe what he will?

And Mr. Glynn added, That he must needs give Answer to something, that fell from my Lord, concerning other words, that they were words of Discourse, and what he speaks at his Bed, or his Table, or in private Discourse, he thinks they should not be brought against him. But Mr. Glynn besought their Lordships to remember, that if my Lord speaks the words as a Privy Counsellor speaking to the King, concerning the Subjects property,

perty. compare these words with the other Extermination, and then see what the Case is. Art. XXIII.

The last thing in his Defence, is as high as the Charge it self. He is charged, That being a Privy Counsellor, and entrusted by the King, and a man of such Eminence, he should endeavour to infuse into the Kings Sacred Person, such dangerous Counsels, tending to the destruction of the Law and Government, and consequently of King and Subject; And in the close, my Lord of *Strafford* put their Lordships in mind, what a dangerous thing it is for one of the Kings Counsel, to be charged for Words spoken at Council-Table, to speak this in such a Presence before the Peers, and Commons of the Realm; that a Privy Counsellor, who ought to be clear and candid, is not to be questioned, though he infuse dangerous Counsels. That it is justification of his own Act, and so great, that he knows not how my Lord could say greater; and so he said, he hath no more to say, their Lordships had heard the Proofs and Defence, and comparing them together, he doubts not but their Lordships are satisfied, that the Commons had just cause to do what they have done.

My L. of *Strafford* desired to answer one thing, the Gentleman that spake last, said, touching his revealing the Kings Counsels to Mr. *Slingsby* and others; he would be loth to be charged with breaking his Duty to God and the King, but where he hath Power and Liberty; for as concerning the employment of that Army, the King left it wholly to him, to acquaint whom he thought fit, for the bettering of the service.

But the thing that makes him rise, is, to represent to their Lordships, that he hath been there constantly in a great deal of weakness and infirmity, since 7 or 8 of the clock, and now it is 5. That his Speech and Voice are spent, and it is not possible for him to come here to morrow; and therefore he most humbly besought their Lordships, to give him the respite of a day, to restore his litle strength it shall please God to lend him, for he is not able to speak or stand. Which the Committee for the Commons House said, they should not oppose, if it stand with their Lordships pleasure.

Mr. *Pym* did only add this, That if their Lordships please to observe my Lord of *Straffords* endeavours to prove divers mitigations of his words, some by Mr. Comptroller, and some others by my Lord *Goring*, But their Lordships may observe, that the words in the Charge were spoken at the Committee; the words spoken of by Mr. Comptroller, were at the Council-Table, and therefore they are not the same, nor serve they for extenuation of words spoken at another time.

Mr. *Pym*.

And so the House was Adjourned, and appointed to meet again on Wednesday next.

T H E

T H E

Five and Twentieth Article.

The Charge.

Artic. XXV.

Charge.

²⁵ **T**hat not long after the Dissolution of the said last Parliament, (viz. in the months of May and June) he the Earl of Strafford, did advise the King to go on vigorously in levying the Ship-Money, and did procure the Sheriffs of several Counties to be sent for, for not levying the Ship-Money, divers of which were threatened by him, to be sued in the Star-Chamber, and afterwards by his Advice, they were sued in the Star-Chamber, for not levying the same, and divers of His Majesties loving Subjects were sent for and imprisoned by his advice, for that and other illegal payments.

And a great Loan of One hundred thousand pounds was demanded of the City of London, and the Lord Mayor, and Sheriffs, and Aldermen of the said City, were often sent for by his Advice to the Council-Table, to give an account of their proceedings in raising of Ship-Money, and furthering of that Loan, and were required to certify the Names of such Inhabitants of the City, as were fit to lend, which they with much humility refusing to doe, he the said Earl of Strafford did use these, and the like speeches, viz. That they deserved to be put to Fine and Ransome, and that no good would be done with them, till an example were made of them, and that they were laid by the heels, and some of the Aldermen hanged up.

April

April 7. 1641.

Artic. XXV.

Mr. Maynard.

Mr. Maynard proceeded to make good the Charge of the Commons of England, against the Earl of Strafford, touching High Treason, and said, They had already brought it so high, as they must needs acknowledge they cannot goe higher; a Design being laid to introduce an Arbitrary Government, and Counsels given to maintain that, and to introduce it by force. They can goe no higher, unless those Counsels had unhappily succeeded; but though those Counsels take not effect, yet the Principles whereby those Counsels were given, appear still to have remained.

AN D whereas my Lord of Strafford having these things proved against him by his Speeches, Opinions, and Counsels, pretends there was no such thing done, as if the goodness of others, would excuse the badness of his Counsels; they shall shew what he did do in the succeeding Articles: And in the 25th he proceeds, First, to advise His Majesty to go on vigorously with the Ship-Money, he procured the Sheriffs to be sent for, and sued in the Star-Chamber; he sent for the Mayor and Aldermen, about the loan of 100000*l.* and the furtherance of Ship-money; and were told by him, That they deserved to be put to Fine and Ransome, &c.

To prove the 25th Article.

The Lord Treasurer of England being Interrogated, What Advice my Lord of Strafford gave, touching the levying of Ship-Money?

L. Treasurer.

His Lordship Answered, That he remembers my Lord of Strafford did advise, that they should go vigorously and effectually on with the getting of Ship-Money; he takes the time to be, when as the Ship-Money came in very slowly, and they were enforced to take out of these Moneys that were provided, for the furnishing of the Army, divers great sums to set out a Fleet, which else would have staid still; and my Lord of Strafford took no tice, That if it were not repaid, the Army would be destitute and unfurnished, and therefore advised as formerly, That the Ship-Money might go on vigorously, and the other Money be repaid again, for the use for which it was appointed, and it was after the breach of the last Parliament.

Tho. Wiseman Sworn and Interrogated, what he heard my Lord of Strafford say, when the Aldermen of London were called to the Council-Table about the Ship-Money, and the Loan, and when it was?

Tho. Wiseman
Witness.

He

Artic. XXV.

Tho. Wiseman,
Witness.

He *Answered*, That for the time he cannot very well remember, and touching the Loan, he is able to say little; But about the Ship-Money, he doth well Remember, that my Lord should say, they would never do their Duties well, till they were put to Fine and Ransome, meaning the Aldermen, that were then called before their Lordships, and this is as much as he can say.

Being asked whether there were not words of *laying by the heels*, and what the words were?

He *Answered*, He should not fear to do it, My Lord of *Strafford* did say (Whether on the Loan or Ship-Money, he is not able to remember) You should doe well to be layed by the heels; you shall have no good of this man till he be laid by the heels, and he (the Examinant) supposes it was meant of my Lord Mayor, who was then present, (as he remembers) and my Lord was there, and to his best remembrance, His Majesty was present.

Earl of *Barkshire* being Sworn and Interrogated, What my Lord of *Strafford* counselled the King, touching the said matter of Loan?

E. of *Bark-*
shire.

His Lordship *Answered*, That he remembers His Majesty desired to borrow a sum of Money, and to give good security for it, and Interest after 8 *per cent.* on the sum. That the Aldermen were sent for, and commanded to give in to the King, the Names of those Men, that were most able within their several Wards, which they excusing themselves from doing; my Lord of *Strafford* said: Gentlemen, in my opinion, you may be lyable to Fine and Ransome, for refusing the Kings Command on this occasion, for not certifying the Names; and this is the effect of what he spake.

Sir *Henry Garaway* being Sworn, and Interrogated, What my Lord of *Strafford* said to the Aldermen, about the Ship-Money and Loan-Money?

Garaway. Lord
Mayor of *Lon-*
don.

He *Answered*, That as he was Mayor of *London* in the last year, he was oftentimes commanded to attend the Council-Table, with the Sheriffs of *London*; when they came about the Ship-Money, there came no body (as he conceives) but they and himself; but when they came concerning the Loan, the whole Court of Aldermen came together. Concerning the Ship-Money, he confesses he found a great difficulty of it; he could not tell which way to turn himself to levy the Money, to give the King satisfaction; He acquainted His Majesty, That there were these difficulties in it, That of two years proceeding, not one halfe of the City of *London* had paid, and therefore the *willing men that had paid the Money*, thought it unequal some should pay, and some go free. And Secondly, he said it was the opinion of the City of *London*, That a Writ for Ship-Money, and a Writ for a Parliament did not agree well together, and for these reasons he found it very difficult: they were called up, and hastened both in the Assessment of Collection, and in respect they found every man

man adverse to it ; the business had not that progress, nor speedy execution it might otherwise have had, and as it had in former times. And when he had told His Majesty this, it was ill taken, that he should deal so plainly, because he did discover himself clearly and freely, what was the fruit of the business. And it pleased my Lord of *Strafford*, then in the presence of the King, to speak, *Sir, you will never do good on this man, till you have made him an example, he is too Diffident (or to this purpose) unless you commit him, you shall do no good upon him;* This concerning the Ship-Money. Concerning the Loan-Money, when they came with the Aldermen together, he (the Examinant) desired he might be call'd in singly, because he was very loath (knowing the humour of the Court of Aldermen, how they stood affected) that they should give the King a negative Answer at the Board, and it pleased His Majesty to call him (the Examinant) in singly, and he told His Majesty in his hearing at that time, That there was no good to be done, for amongst all the Aldermen, he could not yet consent to raise above 6 or 7000 pound at the most. And then they were to bring in out of every of the several Wards, the Names of all the able men of the City of *London*, that could lend Money; wherein it was required they should set it down, what every man was fit to lend. This they altogether declined, for we thought it not fit we should rate mens purses, and he (the Examinant himself) presented the Size-Cinque, the Quater-tres men, and the Deux-ace men, according to their qualities, but set a rate on men we did not, and desired His Majesty we might be spared. Hereupon my Lord of *Strafford* at that time, burst out into these words, *Sir, You will never do good to these Citizens of London, till you have made examples of some of the Aldermen;* This to his best remembrance he said, *Unless you hang up some of them, you will do no good upon them.* This is the substance of what he heard.

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Being asked whether this was immediately after the breach of the Parliament?

He Answered, That he cannot confine himself in time; he desired to be spared in that, but he was several times at the Council-Table; but it was after the breaking of the Parliament.

My Lord of *Strafford* observing, that Alderman *Garaway* spake it only to his best remembrance, he was Interrogated, Whether he could speak it positively?

E. of *Strafford*.

He Answered, That it is a great while ago, and he did hear the words, that's certain.

Garaway.

Being asked by my Lord of *Strafford*, whether he himself spake them?

He Answered, Yes my Lord, your Lordship did speak them.

My Lord desiring leave to recollect himself a little, said, he will speak with as much truth, albeit, not with so much confidence as this Gentleman.

A a a a

And

Artic. XXV.

Defence of the
E. of Strafford.

And after a little respite, he began his Defence as followeth.

The Defendant must still insist on this ground, which hitherto he hath gone upon, under their Lordships good leave;

That there is nothing in this *Article*, that can possibly convince him of High-Treason, admit it all proved, as it is laid down in the Charge; he hath very little to Answer, for there is little proved, the greatest part is offered on a single Testimony, which as he hath heretofore mentioned, he humbly conceives, by the Laws of the Land, cannot be charged upon him in case of Treason; for nothing can be charged upon him in case of Treason, without two lawful Witnesses.

For the advice my Lord Treasurer says he gave in case of levying Ship-Money, surely he advised no other ways, than as had been formerly used 3 or 4 years before his coming into the Kingdom; so that if it be an error, he was led into it by the practice of former times, and of wiser men than himself.

Besides, there was then, as he conceives, a Judgement given in the *Exchequer-Chamber*, and he hath learnt always in his own practice, by reason of his own weakness of judgement, never to be wiser than his Teachers, or to pretend to know more in other mens professions, than they know themselves.

And therefore there being a Judgement given in point of Law by the Judges, it was not for him to dispute what they had done, but with all humility, to submit it to better judgements than his own, so that to advise such a thing (as it then stood) he hopes will be excusable and pardonable in him, albeit he doth not justify himself in it, in respect of something he hath heard and learnt, since that time, and taught him likewise by wiser men than himself. And as he then followed that which was delivered by the Judges, so he shall for the future, follow what he hath learnt by others, that ought to be believed, and by him credited before himself: But in the mean time he conceives it a pardonable fault, and shall never be drawn up, or put into the Scale against him as Treason.

To the other words, testified to be spoken by him at the Council-Table, He Answers, That he might hold the Aldermen lyable or subject to Fine and Ransome, in case they did not submit to the Kings Demands (for so on the matter, my Lord of *Berkshire* repeats the words) truly such hath been, and shall be his ingenuity in all things concerning this business, that these words he hath already acknowledged and confest to be by him spoken; and he confessed now he did say, That in his opinion, in a Case of that great necessity, and imminent danger, which he conceived the Kingdom to be in, their refusal might perchance, make them lyable to Fine and Ransome; but the words, as he remembers them, were applicable not to that particular, but to another.

For he says, and he says truly, the words were spoken to hasten and speed my Lord Mayor in the services that were commanded him; not out of any intention or purpose, to do him hurt by further moving, or prosecuting any thing against him. He confesses, he wishes he had not spoken them, but being spoken, and spoken to that end and purpose, as high a thing as this might have been passed over, and not charged on him as a crime, but rather as an extravagant saying, which God forbid a man should be Arraigned for in this kind, as he is, and a little excess of Speech, he trusts by their Lordships Favour and Goodness, may be excused, if not pardoned,

pardoned, at least so much pardoned, as it shall not be laid to him as Treason, when it is but a hasty word, and nothing follows upon it. Art. XXV.

For the other words which my Lord Mayor sayes, that he the Earl of Strafford should say to His Majesty; *Sir, there will be no good done with the Citizens of London, till you have hanged some of them up*; which at first he said, was to his best remembrance, and upon recollection, he says directly and absolutely; for my Lord said, he must not make it weaker against himself than it is; and he wishes that rule might be kept on both sides, which is to repeat the Evidence to their Lordships clearly and plainly as it is; which duty he said, he had Religiously observed, since the beginning of the Cause, and will perform to the last, not misrecyting any thing for his advantage or disadvantage; This being howsoever his comfort and joy, that their Lordships are so wise, as not to hearken to what is repeated of the Evidence, but to the Evidence it self, as it is plainly and clearly represented, and that will not deceive them: and therefore my Lord said, to the best of his remembrance (and the Witnesses said, no more at the first) he spake them not, but he thinks they were spoken in so good company, before their Lordships of the Council-Board, that it cannot but be remembred, by some of their Lordships, if the words had been spoken, and by His Majesty, to whom it is said they were directed.

But being an equal Testimony (however in this condition, and misfortune, and affliction, it may be between this Gentleman and himself) he thinks that before these troubles befell him, he was as equally to be believed as the other; and therefore all the difference is, one sayes it, the other denies it.

My Lord added, That he denyed it in his Answer, and he denies it at the Bar, and in truth, to his best remembrance, he never spake the words; and it is a thing of no great moment, being a hasty word, and at the most very excusable, especially to a free spoken man, as he is, and he smarts for it, which hath further engaged him, perhaps than wiser man would have been, that hath much worse thoughts than ever he had, but he hoped it will be pardoned, and not amount to make good the Charge against him, but that their Lordships Honor and Justice will excuse it, rather than punish it, and so his Lordship said, he would say no more to it.

Mr. Maynard made Reply thereunto, in substance as followeth.

The Committee shall need to to say little to this Answer of my Lord of Strafford, for whereas he sayes nothing of High Treason is proved, their Lordships will be pleased to remember, how oft this hath been answered; for if their Lordships will look back, to what they have proved from the beginning: They charge not this as a particular Treason, but having charged him with a design to subvert the fundamental Laws; it appears he threatened it, *That the Kings little finger should be heavier than the loins of the Law*; They have shewed what he did in Ireland, how he did not only threaten, but gave sentence of death on one for words, how there he hanged another; it appears what a Jurisdiction he erected against Law, and wayes were taken to maintain them; how Soldiers were forced on mens Houses against their Wills; and what Insolency they committed, and that must not be questioned when it is propounded; When he comes into England, their Lordships hear what Counsels he gives, which compared with the Plots he laid, there is reason to think, that these words proceeding

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ceeding from my Lord of *Strafford*, that men should be Fined and Ransomed, Hanged up, and laid by the Heels, comes not out of suddain passion, but rise from those Principles and Resolutions that were in him, to do all things according to his Will and Pleasure, against Law.

They beseech their Lordships, these may not pass as hasty words, when they appear to be suitable and conformable to Actions and Counsels preceding for many years, and not yet laid down by him, for ought can be discerned.

The singleness of the Testimony hath been often Objected, and as often Answered, but this is no single Testimony; My Lord Treasurer speaks of his Advice to go on vigorously with Ship-Money; Others prove Fine and Ransome, and Hanging up, Threatened, which have all concurred to the general Charge, being several circumstances proved by several Witnesses.

But whereas my Lord thinks to excuse himself, because there was a Judgement in the *Exchequer-Chamber*; God be thanked, it appears to be a Judgement against Law; and my Lord of *Strafford* spake these words after the King offered to lay down the Ship-Money, for it was after the Parliament; But there was never any Judgement, that a man might be hanged in such a case, nor be Fined and Ransomed for not certifying in matter of Loan; my Lord of *Strafford* knows as well as any man, that it is against Law, himself having had a great hand in the *Petition of Right*.

Mr. Glyn.

Mr. Glyn desired he might observe one thing, that fell from my Lord of *Strafford*, not at this time only, but at several times; That it is hard he should for words be questioned as High Treason, being a word spoken, and no illeffect of it; their Lordships may be pleased to call to mind, that for words spoken concerning *Treading on his Toe*, he prosecuted so far as to life, and yet they were spoken as accidentally as these, and not of less consequence, and nothing came of them; and yet he procured a sentence of death against the Speaker, but here he extenuates it, and must not be charged with words.

And so the 25th Article was concluded.

T H E

T H E
Six and Twentieth
Article.

The Charge.

26. **T**hat the said Earl by his wicked Counsels, having brought His Majesty into excessive charge, without any just cause, he did in the month of July last (for the support of the said great charges) Counsel and approve two dangerous and wicked Projects, viz.

To seize upon the Bullion, and the Money in the Mint.

And to imbale His Majesties Coyne with the mixtures of Brass.

And accordingly he procured One hundred and 30000 l. which was then in the Mint, and belonging to divers Merchants, Strangers, and others to be seized on, and stayed to His Majesties use. And when divers Merchants of London, owners of the said Bullion and Money, came to his House, to let him understand the great mischief that course would produce here, and in other parts, and what prejudice it would be to the Kingdom, by discrediting the Mint, and hindring the importation of Bullion: he the said Earl told them, that the City of London dealt undutifully and unthankfully with His Majesty; and that they were more ready to help the Rebels, than to help His Majesty: And that if any hurt came to them, they may thank themselves; and that it was the course of other Princes, to make use of such Moneys to serve their occasions.

And when in the same month of July, the Officers of His Majesties Mint came to him, and gave him divers reasons against the imbaling the said Money; he told them that the French King did use to send Commissaries of Warre, with Commission to search into mens Estates, and to peruse their Accounts, that so they may know what to levy of them by force, which they did accordingly levy; and turning to the Lord Cottington, then present, said, That this was a point worthy of his Lordships consideration, meaning this course of the French King, to raise Moneys by force, was a point worthy of his Lordships Consideration,

Art. XXVI.

Charge.

Mr.

Artic. XXVI

MR. *Maynard* proceeded to open the 26th *Article*, and observed, That they had shewed formerly; how my Lord of *Strafford* had laboured a Disaffection betwixt His Majesty and His People: Now they come to shew, That His Majesty being put to extreame Charges, by the Advice of my Lord of *Strafford*; my Lord adds his advice, for seising Money in the Mint, and for that of the base Coyn, or Black Money; And, that when some attended my Lord of *Strafford* about it, to shew to him the danger and ill consequence, that might arise from it, my Lord of *Strafford* tells them, The City had dealt undutifully and unthankfully with His Majesty, and were more ready to help the Rebels than His Majesty; and, they may thank themselves; and, it was the Course of other Princes, to make use of such Monies. And, when the Master of the Mynts gave Reasons against it, my Lord said, The French King uses to send Commissaries to mens Shops, and to look into the Accompts and Books of men, to see and peruse their Estates, that they might raise and levy it by force: And, turning to a Noble Lord by him, he said, That was a point worthy of his Lordships Consideration.

To prove the words spoken, about seising the Money in the Mint,

Robert Edwards,
Witness.

Robert Edwards was Sworn, and Examined, What he heard my Lord of *Strafford* say, when he attended him, about the Money seized in the Mynt?

He *Answered*, That he went to his Lordship about the danger, that the Company of Merchant-Adventurers were in, in regard their Estates were beyond Sea, giving his Lordship to understand the danger, in regard so much Money was taken out of the Tower, being, as he remembers, on *Saturday* night. They went on *Monday* morning, and desired my Lord to speak to His Majesty, that the money might be restored again, that their Means might not be seized; for, some strangers had threatned, they would signifie to their Principal, how their Money was taken from them, and would seek for a recompence again, by the Means they had beyond Sea: And, my Lord made Answer again to him, and diverse others that were there, That if they fared amiss, they might thank themselves, for if they went on in that manner, they were like to find it themselves; and that they should have the damage of it, if they did look to it no better. And withal he said, That though they think it is a strange business here, yet beyond Sea it is not so, but on Command men have their Goods taken. This was the substance, as he remembers, of what he said to them.

Being Asked, What my Lord of *Strafford* said, touching the City of *London*?

He *Answered*, That he said, They did deal very unthankfully and undutifully,

undutifully, for there was but 14000 *l.* for Ship-money that was His Majesties due, and they denyed the payment of that; and did more to maintain the Rebels, than they did to maintain His Majesty.

Artic.XXVI.

Being bid repeat his words.

He said, That they came at first to be humble Suitors to his Lordship, to be a meanes to His Majesty, that the Money taken from the Tower, might be restored again; for, the Merchants Adventurers Estates beyond Sea, were in great danger, in regard there were some strangers threatned, to write to their Principals, to stay their Estates there, for the Money stayed in the Tower: Whereupon my Lord made Answer, That if they did speed amiss, they might thank themselves, for they are more ready to hold with Rebels, then they were to give His Majesty His due, which was 14000 *l.* for Ship-money.

Being Asked (on my Lord of Straffords motion) Where he spake them? and, Whether he was not then Sick?

He Answered, It was in his Chamber: and my Lord did sit in his Chair, and he (the Examinant) stood hard by him, with four or five more, and he conceives my Lord was sick at that time.

Being Asked, on like motion, Whether he did not tell them he was sick, and could not go to the King at that time?

He Answered, That he remembers not that my Lord said, he could not go to the King; but, he said, he knew nothing of it till that morning, to his (the Examinants) remembrance.

Anthony Palmer Sworn, and Interrogated, What my Lord of Strafford said to him, concerning the mixt Money?

Palmer Witness.

He Answered, That my Lord of Strafford had some Discourse with him, and the rest of his fellow Officers, concerning base Money; and, upon the Questioning of it, they gave him their Reasons against it, and the insufficiency of it to do any thing, and said so much, as they conceived my Lord was dissuaded from going any further in it: Upon this, he afterwards shewed them a Letter, drawn out of his Pocket, which, as he said, was sent him out of France, and in the French Tongue; and, because he (the Examinant) did not understand the French tongue, he read it in English to this effect, so far as the best of his memory will hold; That the King of France, or the French King, had appointed certain Officers of his, to go and take view of mens Books of Accompt and Estates, by that means to see what they were worth, and to know what the King might demand of them; and, if they were not willing to pay it, there would be a force upon them to pay it. This, to the best of his Remembrance, is that my Lord did deliver.

Being

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Being Asked, Whether my Lord of *Strafford* did not speak words to this effect, That if His Majesty should do so, he should have the Examples of others, or to that purpose?

He *Answered*, Something he set forth to this effect, but the very words he cannot express, but it was to that purpose; That he had received Letters, that the King of *France* had sent Officers, that took view of Mens Books and Accompts, to raise to himself some Moneys (if they were not willing) by constraint, and withal some other Speeches did fall from him to this purpose, but, the very words he cannot speak, that it was an Example, or might be an Example, to do the like in *England*.

Being Asked (on my Lord of *Strafford's* motion) Where this was spoken?

He *Answered*, It was in my Lords own house in *Leister-fields*, he thinks, and there were present three more, Sir *William Parkhurst*, Mr. *Gogan*, and himself, and my Lord *Cottingham* was also there.

Henry Gogan Sworn and Interrogated, What he heard my Lord of *Strafford* say, when he attended him, about the abusing of the Coyn?

He *Answered*, That after the Coyning of the Base Money was thought on, there were Queries made, and they were to give an Answer the next day about the making of it; That was, about the Expedition, and what it would cost, and two other Particulars, the Paper Sir *William Parkhurst* hath. But, some of them spoke against the making of the Money, Mr. *Palmer* and the rest shewed the inconvenience of it; and then my Lord pull'd out a Letter in *French*, and read it in *English*, to this purpose; That the King of *France* raised money by force, sending Commissaries of Horse to look into their Books and Estates, and levy money accordingly; and, did turn about to my Lord *Cottingham*, and said, My Lord, this is worthy your consideration or hearing, or words to that purpose.

Being Asked (on my Lord of *Strafford's* motion) Where it was spoken?

He *Answered*, It was spoken at my Lords House in the Fields, in the presence of Sir *William Parkhurst*, Lord *Cottingham*, Mr. *Palmer*, and himself.

Sir *William Parkhurst* being Sworn, and Interrogated, What my Lord of *Strafford* said, when he and the rest attended him about the Copper Money?

He *Answered*, That they were sent for; and, the first Question they were asked, was, What sorts of Money were made in Queen *Elizabeth's* time of Copper, for the Kingdom of *Ireland*? they told

told him what they were, and that they could produce the Indentures and Circumstances of making those Monyes; and they had diverse Discourses of the matter of Money, and it was resolved into certain Queries that they should consider of, which he the Examinant was never formerly examined of, and the Papers are not here, neither was he warned hither to day. And, in the discourse of these Moneys, my Lord of *Strafford* did produce a Letter written in *French*, as newes lately received from thence, and, doubting whether they understood French or no, he Englished it, in these kinds of words, or thus much in substance, That the French King had lately sent certain Commissaries, or Commissioners, into diverse parts of *France*, there to take and peruse the Accompts of Merchants, and the Books of Mens Estates, whereby they might know what Estates they had, and this is the substance of what he can say, and further he heard him not say.

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Being Asked (on my Lord of *Strafford*s motion) Who was there present?

He Answered, My Lord of *Strafford*, my Lord *Cottington*, Mr. *Palmer*, Mr. *Gogan*, and himself.

Being Asked, on the like motion, Whether he heard my Lord of *Strafford* offer to my Lord *Cottington*, That this was worthy his consideration or notice?

He Answered, That he did not hear it.

Being Asked, Whether he said, That if the King should do so, he should follow the Example of other Princes?

He Answered, No.

Sir *Ralph Freeman* being Asked, What words my Lord of *Strafford* spake concerning Copper Money, If it were refused to be taken?

He Answered, That he was not there at the first meeting, but at the private Council, His Majesty being present, there was a Debate about Paying Copper-Money, and he (the Examinant) Answering, That they would not work, if they were paid in Copper Money: My Lord of *Strafford* replied, You know what course to take with them, you may send them to the House of Correction; This is all he heard.

Mr. *Maynard* desired *Tho. Skinners* Examination might be read, as to the matter which Mr. *Stewart* was examined to, he being seen at *Westminster* that morning, and acknowledged, that he was to be examined here as a Witness, and it seems could not get in, or is otherwise kept away.

Mr. Maynard.

My Lord of *Strafford* desired, they might reserve the advantage of him, and he would give way to it.

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Mr. Maynard.

Mr. Maynard answered, That when he sayes a Witnes may be kept away, it is not that he is kept away, for he is here; but, if a Witnes hath been examined, and doth not come, his Examinations may be read, for it is possible a Witnes may be kept away, though he be not sick.

George Henley being Sworn, and Interrogated, Whether he saw Skinner this morning at Westminster?

Mr. Henley,
Witnes.

He Answered, He saw him in the Pallace-yard, and he told him the Examinant, that he (the said Skinner) was to be here as a Witnes.

My Lord of Strafford desiring that liberty for him to Cross-examine him might be reserved, and that being granted, the Examinations were read.

The Examination of Tho. Skinner Gent. taken the 8th. Jan. 1641.

To the 98 Interrogatory he saith, That he attended Mr. Edwards and other Merchants-Adventurers to the Lord-Lieutenant, a little after the stay of the Money and Bullion in the Mynt, and the said Merchants represented divers inconveniences to his Lordship which might arise from the stay thereof; and alleadged, That it would occasion a seisure of the English Merchants beyond the Seas. Whereupon his Lordship said, He did not know of the seisure until that morning; But, if any Inconvenience happen, they may thank themselves: and his Lordship further said, that though this act might seem strange in England, it was no newes in other Countries; Where Princes made use of such means to serve their occasions; and his Lordship did very much tax and blame the City of London, saying, They dealt unworthily with His Majesty, in refusing to pay the 14000 l. of Ship-money, which was His due; and that they were more ready to hold with Rebels than with His Majesty; and, that they dealt unthankfully with His Majesty, in not relieving him in His great Necessities.

And so Mr. Maynard concluded this Article, the words charged being proved, and my Lord of Straffords Answer was expected.

After a small time given him to recollect his Notes, my Lord of Strafford made his Defence, in substance as followeth,

E. of Straffords
Defence.

That he is to give his Defence to the 26th Article, the first part whereof was, That he should Counsel and Approve two dangerous and wicked Projects.

First, To seize on the Bullion and money in the mint.

Secondly, To debase the Coyn with mixture of Brasse.

That

That he hath, in his Answer, denied either the Counselling, or the approving of these Projects, as they call them; and, for that part, which indeed would be the principal thing in the Charge, if it were proved, there is no offer of any proof at all, that is, concerning his Approving, Counselling, or devising those Projects.

To this he Answereth, It will appear in their own proof, he (the Defendant) did not Counsel the seizing of the money, for Mr. *Edwards* acknowledges, when they came to acquaint him with the business, he professed he knew nothing of it; Nor did he, being then sick, and unfit for this matter.

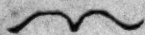
And, Mr. *Skinner* sayes, He (my Lord of *Strafford*) told them, That he knew nothing of the seizure of that money; So that there is no Proof against him: and, the Proof brought, Acquits him, as to that.

For the debasing of the Coyn, Mr. *Palmer* sayes, That he and the rest of the Officers giving Reasons against it, he (my Lord of *Strafford*) gave it over; He remembers very well, there was some speech about the Copper Coyn; and, that Information was to be given, what Queen *Elizabeth* had done in the like case: And, he remembers too, that it was given over: Also, that he was one of the Committee, to take Information of the Reasons for it, and against it; and, to report: and, further then that, he medled not with it.

For the rest of the Charge, in telling the City, They dealt undutifully with His Majesty, &c. he conceives the Proofs are full in the Point, and fuller then any thing of the Charge since the Trial began.

And, it is true, he did not at that time think the City had dealt thankfully with His Majesty, they having received so many Favours from him, and He residing amongst them, should refuse the Loane of 100000 *l.* on good security given; and, it might very well be (as he thinks he did) at that time, he might say so; And, if he spake it out of overmuch sence towards His Majesty, and His Service, surely he doth not conceive it to be any great Crime, to say, They dealt undutifully with the King: But, whatsoever it was, he is sure he is ready to amend it, and to be of another Opinion; For, he remembers very well, and, he thinks many of their Lordships will call it to mind, that when upon the return of diverse Noble Persons to *York*, he understood that the City of *London* had lent the King 200000 *l.* he then said, That he was glad for his part, extreamly glad of it; and, all that was past formerly, was now fully satisfied, as to him, and he should be ready to serve them with his Life for it, as long as he lived; And this he spake in the Great Council of the Peers at *York*, and that he would be as ready to serve the City of *London*, as any poor Gentleman in the Kingdom, and so he sayes again, he will: and if at that time, or other time, he was so sensible of the Service of His Master, as not to think it well done of them, to refuse so small a Curtesie, and exprest something that might have been spared: Men oftentimes offend with the Tongue, when they offend not with the heart; And, he hopes this can be no such Bloody Crime, it arguing him rather to be innocent from doing any

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great evil, when words are so often charged on him, rather than doing.

But, there are some things not proved, that perhaps will be mentioned, because they be singly spoken of, but not doubly proved.

The next Charge is a Letter, that he should shew, about the King of France appointing Officers to take Accompts, and to view mens Books, and that it might be an Example for us here. Which words he doth absolutely deny. He never spake them. He never thought them: And Mr. Palmer only speaks it; But sayes, the very words he cannot expresse; and, if he cannot (the Defendant) appeales to their Lordships, whether he should be Condemned for words which cannot be exprest? and he hopes it will be of very little force with their Lordships, when it is so uncertainly delivered. But, however, it is a single Testimony, none of the other Witnesses testifying the words, as he conceives.

Sir William Parkhurst denies expressely, that he heard them.

Mr. Gogan is a single Testimony, in saying, what my Lord of Strafford should say to my Lord Cottingham, That they might be worthy of his Lordships consideration; And Sir William Parkhurst denies that he heard them.

But, it will be necessary for him, to let their Lordships know clearly and plainly, what this great matter was concerning the French Letter, for he trusts my Lord Cottingham would remember it, and my Lord Treasurer too, if need were; but this is no way in his Charge, and therefore he shall not insist in the proof of it.

His Lordship having the honor to be of the Foreign Committee, my Lord of Leicester was pleased to send weekly Letters, to divers of their Lordships, and, among the rest, he received one, being in the nature of a Gazette: In which Letter, nothing was mentioned of Commissaries of Horse; but, it was mentioned, that the Cardinal had given direction to certain Commissioners, to go into the Houses of divers Merchants, not over the Kingdom, but at Paris, and Inform themselves by their Books of Accompt, what Estates they had, that they might demand Supply.

This Letter, he sayes, he Read, with this Clause, You may see what is done in other places; but, God be thanked you have so pious and gracious a King, that he thinks on none of these things; he read it to them as a Gazette, a foolish idle Letter, and no more.

My Lord Cottingham being Interrogated touching the Letter, &c.

L. Cottingham
Witness.

He professes that he knew nothing of such a Letter, but because he would remember it, he spake with Sir William Parkhurst, and Mr. Palmer, and some others, and they told him, that when my Lord was Reading the Letter, he was Writing in another Room; and asking, Why it was said he was present? they told him then, That they thought Gogan had said so, when there was no such matter; For, he having seen his name in the Printed Book,

Book, he hath been careful to inform himself, what kind of Letter it was, for he profest to their Lordships, he remembred not the Letter, nor the discourse, and asking Sir *William Parkhurst* and the rest, why it was said, such words were spoken to him by my Lord of *Strafford*? they say, they had been examined upon it, and had denyed it.

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For Sir *Ralph Freeman's* Deposition, that my Lord of *Strafford* should say, That if the poor men that work on the Money should refuse to work, they might be sent to the House of Correction; That he conceives he might say without offence, but it is no part of his Charge.

My Lord *Cottingham* being asked (on Mr. *Glyns* motion) whether he had heard of such a Letter?

He professed, to his remembrance he never heard of the Letter.

Whence Mr. *Maynard* inferred, there be others that speak to that, therefore there may be something that is not remembred.

Mr. *Maynard*.

And so my Lord of *Strafford* concluded, that he had told their Lordships clearly and plainly what is proved, what the things were, and as they were; and he trusts nothing is in his Actions, but such as may admit of a noble and favourable construction: and so there is no more for him to Answer to this *Article*, but only to say, That under the favour of these Gentlemen, nothing can incline one way or other, to be an accusation of High-Treason.

To which Mr. *Maynard* made a Reply in substance as followeth.

That he should not hold their Lordships long in Reply to this; My Lord denies the Counselling and Approving the matter of seizing the Mynt, and debasing the Coyn, and a Witness produced, sayes, My Lord knew nothing of it; that they can press no farther, but that is no justification to my Lord *Strafford*, to retort such words concerning the Great City of this Kingdom, on so small an occasion, as their desire to have their Money discharged. It was a grievous thing, and is not to be slighted; that their Estates being beyond Sea, my Lord of *Strafford* should make so little of it. But my Lord Answers nothing to these words, That the City of *London* was more ready to help the Rebels, than to help the King, and he doth well not to do it, for whosoever doth help a Rebel, is of the same condition with the Rebel. For the matter of the Letter, it is of no great importance whether it be so or no? But the matter is, What Speeches were used? My Lord sayes, the Speeches are proved by only one witness; But the truth is, one Witness positively swears one part, and another the other part; but both agree, That my Lord *Cottingham* was there, though Sir *William Parkhurst* doth not remember it.

Mr. *Maynard's*
Reply.

Mr. *Whitlock* added, That my Lord of *Strafford* is pleased to mention a Letter from an Honouable person, my Lord of *Leicester*, and now he observes, it was a *Gazette*, and no Letter at all from my Lord of *Leicester*.

Mr. *Whitlock*.

But

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But my Lord of *Strafford* desired, he might not be mistaken, he being very tender to have it laid on him, that he should in any thing speak untruth, or contradict himself.

Their Lordships know, the Letters sent familiarly every week from my Lord of *Leicesters* Secretary, as News to the forreign Committee, are only in the nature of a *Gazette*, and so he intended to open it.

Mr. *Strowd*.

Mr. *Strowd* added, there is something in the Tract of this *Article* that sticks near to me, and I cannot let it pass; Whereas my Lord sayes, Words are only laid to his Charge, which argues his innocency in Fact, in that he hath been sparing in doing; whatsoever his Language is; First, The Laws are clear, that words may be Treason, and to every mans reason it sounds thus far, That words in consequence may go beyond some actions; and words of the highest nature he hath used, all trenching deeper on us than some Acts might have done: to counsel His Majesty in things of that consequence, it touches not only on the safety of His Majesties Crown, but also on the Liberty of his People, and may go beyond force; for if my Lord of *Strafford* had brought in his 8000 Irish by force, we might have withstood them by force.

But when he goes to the Ear of a pious Prince, and insinuates that we know not of, and brings a desolation on a Kingdom, who shall repell such Language, when force may repell Forces? And surely had he plotted and devised against His Majesty, by any one (which God forbid he should, or that His Majesty should be in that danger) the pretence of a Prince might have daunted a Traitor, that he could not have done the work; yet had he done it (which God forbid) a Prince, may dye with fair reputation to posterity; but when he shall inspire a Prince in his ear, and provoke tyrannical Carriage to His Subjects, he may abuse a good Prince, but how he may leave him to posterity, I leave to your Lordships.

But my Lord stays not singly in Counsel and Advice, but something was done upon it. I appeal to your Lordships, when proof shall be brought in the case; and First, consider the misery that *England* is now in, what could have been done more to have made us miserable, but absolute desolation? The Aldermen were committed that very day, and though it cannot be proved, he gave the immediate Counsel, yet he gave the Counsel that hath been proved, and that day four of them were committed; and this the Aldermen are ready to prove.

Sir *Henry Garaway* Interrogated, Whether any of the Aldermen were committed?

Garaway
Witness.

He Answered, That he shall not need to Answer that; for my Lord will confess it, there were four Aldermen committed, Alderman *Rainston*, Alderman *Somes*, Alderman *Geere*, Alderman *Arkins*, and it was the same day they were there, to give an account of the able Men, and the loan of 100000 *l*. Their Answer not giving satisfaction, they were committed the same day to several prisons; by what Order or Direction he knows not.

So

So Mr. Glyn desired their Lordships, to observe the words proved against him, That no good will be done on them, till they were laid by the heels, which my Lord sayes, produced no effect; yet that very day four were laid by the heels, and it rests upon their Lordships Judgements, by whose advice.

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Mr. Glyn.

And Mr. Strowde concluded, That my Lord of Straffords Words and Actions Agree in this Kingdom, and the miseries of this Kingdom, do agree with his Words and Actions.

Mr. Strowde.

And so the 26th Article was concluded.

THE

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THE Seven and Twentieth Article.

The Charge.

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Charge.

That in or about the month of August last, he was made Lieutenant-General of all His Majesties Forces in the North, prepared against the Scots; and being at York, did then in the month of September, by his own authority, and without any lawful Warrant, impose a Tax on His Majesties Subjects in the County of York of eight pence per diem, for maintenance of every Soldier of the Trained-bands of that County; which sums of Money he caused to be levied by force. And to the end to compel His Majesties Subjects, out of fear and terror, to yield to the payment of the same; he did Declare, that he would commit them that refused the payment thereof; and the Soldiers should be satisfied out of their Estates; and they that refused it, were in very little better condition, than of High Treason.

Mr.

MR. Maynard proceeded to the 27th Article; That the Earl of Strafford imposed a Tax on His Majesties Subjects, in the County of York, of 8 d. per diem, for the maintainance of every Soldier of the Trained Band of that County, causing it to be levied by force, Threatening them that refused with Commitment, and that they that did not pay the Soldiers, should be satisfied out of their Goods, and they were in little better case, than the case of High Treason, that refused to pay.

The state of their proofs will stand thus; There were three Levies; First, a months Contribution, and that was for the general; The Second, a Contribution for a fortnight, and that was for two particular Regiments or Companies; A Third, for a month more, so it was for ten weeks in the whole.

My Lord of Strafford pretends two things in his Answer for his excuse.

First, That it was upon a Petition from the Country; To that we say this, The Country did petition His Majesty, offering their endeavour, in that Petition they likewise desire a Parliament for redress of grievances, with which Petition some principal Gentlemen of the Countrey, attended my Lord of Strafford, desiring his assistance; He likes well the clause concerning the Petitioners endeavours, but not that touching the Parliament; and therefore he would not deliver it: though he said, it would fall out, there would be a Parliament, His Majesty having resolved it, but he likes not that they should Petition it. They refusing to retract from their Petition, he doth in the name of some of his Lordships Friends, and Dependants, and Recusants, prefer another Petition, but it was when the Gentlemen of the Countrey were gone, and so there was no consent of the Countrey.

The other thing he pretends is, That the Lords of the great Council, had consented to that Imposition, which we say is not true, there was no such Consent or Direction; yet this he said, both in the Countrey, and in his Answer, and their Lordships best know, that the Lords of the Great Council did not give that direction,

The first thing offered, was the Petition first intended, which Sir Hugh Cholmley, and Sir Philip Stapleton affirming on oath, to be the true Petition, their Hands being to it amongst others, was read, being in effect.

Art.XXVII.

The Humble Petition of the Gentlemen of
the County YORK.

WHEREAS Your Majesty imparted to us the danger, by the incursions of the Scots, and the necessity of continuing the Trained-Bands of this County in entertainment for two Months, and raising Money so long, and did Royally assure us, That the Wardships of such as dyed in this Imployment, should be freed, and one third part of the Trained-Bands should be abated, for which we acknowledge our bounden thankfulness, in ready obedience of Your Majesties Command, we have represented to Your Majesty our present Condition, and in the entrance of the business, we found a great impediment and discouragement, by certain Warrants produced for levying Money, towards this new service, wherein in the first place, we cannot omit to let your Majesty know, the great grief we have, in that the County is there charged with disaffection and backwardness therein, which as we are confident, we never were guilty of, so we were in good hope, your Majesty had received no such Impression of us. And in the next place, we find our selves much grieved, that the execution of such Warrants, which we conceive illegal, should be concluded and urged on peril of life; notwithstanding the strictness of which Warrants, we find divers parts of the County have not been able to pay the Money demanded, and from thence, and the attestation of divers Gentlemen, we are assured the scarcity of Money is such, that it is disabled from satisfying your expectation therein; And that Your Majesty may know it is no pretence, but a real poverty; we are bold to represent the Charges, viz. of

Ship-Money.

Vast expences the last year in Military affairs.

The Billeting and Insolency of Soldiers this Summer, part of the time on the credit of the County.

Decay of Trade.

Stop of Markets.

Charge of Carriages, especially in Harvest, by which means, not only the common people, but most of the Gentry, by the failing of Rents, are much impoverished:

And therefore we petition Your Majesty, You will accept our endeavour, to prevail with the Countrey to raise so much Money, as will pay the County one whole month, from their first rising, within which time, (as is generally reported) Your Majesty hath Commanded the attendance of the Peers, to consult for the safety of the Kingdom, and pray the Trained-Bands may be continued in the Villages, where they are Quartered, except Your occasions otherwise require it; and in the interim, for the redress of these Grievances, and security of Your Kingdom, Your Majesty will please, to Declare Your Pleasure for summoning the High Court of Parliament, &c.

To

To prove that my Lord of *Strafford* refused to deliver this Petition, and that another was framed, to which the Countrey consented not.

Sir *Hugh Cholmley* was Sworn and Interrogated, whether this Petition was shewed my Lord of *Strafford*, and whether he was not unwilling to deliver it, and why?

Sir *Hugh Cholmley*
Witness.

He *Answered*, That this Petition was shewed to my Lord of *Strafford*, in the name of the Gentlemen that had subscribed it, and it was delivered to him by my Lord *Wharton*, and of those Gentlemen that subscribed their Hands, many were gone out of Town, and desired that those that staid in Town, might attend my Lord *Wharton*, and intreat him to deliver it to my Lord of *Strafford*, and when it was delivered, my Lord of *Strafford* took only exception (at least he the Examinant) is sure that was the chief exception) because they petitioned for a Parliament ; and said, that leaving out that Clause, he would joyn with him in the Petition.

Being asked what he knew of another Petition framed afterwards ?

He *Answered*, That at that time no other Petition was framed, by the Gentry of the Countrey, this Petition being rejected ; for my Lord of *Strafford* went and delivered some message to the King (he thinks for the maintaining of the Trained-Bands a month) and many of them that did subscribe to the Petition not consenting to it, met together, intending to make a Petition and Protestation against it, and did so ; intending to deliver it to His Majesty, but it was not delivered.

Being asked what Moneys were levied, by whose Warrants, and for what time?

He *Answered*, That he can say nothing to the levying of Money, but in general, he thinks Money was levied.

Sir *Henry Cholmley* Sworn and Interrogated, what my Lord of *Strafford* said concerning Money ?

Sir *Henry Cholmley*
Witness.

He *Answered*, That he had the Honor to be one of the Colonels of the Trained-Bands, and received Command from my Lord of *Strafford*, being Lieutenant-General of the Army, to give account in what state his (the Examinants) Regiment stood ? of what strength it was, and how provided of Money ? That he repaired to his Lordship, and told him, That notwithstanding the Warrants sent out, they came not to him, and unless he had Money shortly, the Regiment would disband ; That his Lordship answered him, he would send a Levy on the Goods of those that refused.

Being asked (on my Lord of *Strafford's* motion) whether he did so send ?

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He *Answered*, No ; that he knows of.

Sir *John Hotham* Sworn and Interrogated, what he knew touching the Petition, and my Lord of *Straffords* rejecting it ?

Hotham
Witness.

He *Answered*, That concerning the Petition, it is true, that being to meet together in the afternoon at the Common Hall, they did first consult, what to represent to my Lord.

But when they came there, my Lord refused, and made doubt of delivering the Petition, unless they would put out the clause, concerning the Parliament, and some thought it fit to prefer it without it.

Some of the Gentlemen that had petitioned, went out, and delivered in something to the King, but what it was he knows not.

And for levying of the Money, he can say nothing to it; Warrants were sent out by the Vice-President, but how far my Lord was interested in it, he can say nothing at all.

Sir *Philip Stapleton* Sworn and Interrogated, as to the delivering of the Petition.

Stapleton
Witness.

He *Answered*, that for the Petition, he can say his Countrey-men being sent for to *Tork* by the King, and intimation given, that they should keep their Trained-Bands for two months, they desired time to give an answer, which was allowed them as they desired, till the next day. They met that night, and though my Lord-Lieutenant desired to meet with them, they met first by themselves, and drew this Petition; for my Lord being Lord Lieutenant-General, and a Privy-Counsellor, they should not have been so free to deliver their opinions, though he (the Examinant) thinks some of them should have been free enough. They drew the Petition, and he thinks there was 100 hands to it, and being delivered to my Lord-Lieutenant, he took exception, because it concluded with desire of a Parliament, and told them, if they would leave out that Clause, he would deliver it, if not, he would not, and after long discourse (wherein he shewed much Eloquence) most of them continued their resolution to stand to that Petition, and many went out of Town and left it, without making question but it should be delivered to His Majesty. My Lord after put it to Vote, whereof there were many Papists, and on the Vote delivered an Answer, what, he (the Examinant) doth not know, for he staid behind to draw another Petition, and an humble protestation to His Majesty, that this Petition was the Answer of the Countrey.

Lord *Wharton* being Sworn and Examined to the point of the Petition ?

L. Wharton
Witness.

His Lordship *Answered*, That this was unexpected to him, for he heard not of it from the Committee, till he came into the place, but he can perfectly speak to it, having a little Interest in it, himself being one of them who subscribed it; That on Saturday in the afternoon, being appointed to attend my Lord of *Strafford*,

Strafford touching this business (for most of the Gentlemen desiring to be at home) on a suddain went out of Town, and desired him with some others, to deliver this Petition to my Lord, by his own hand, to be delivered to the King, he did so, and accordingly desired my Lord to deliver it in the name of the Gentlemen, that had set their Hands to it, many being likewise with him on that occasion; That my Lord of *Strafford* took exception to the clause for a Parliament, and said, That if they would put that out, he would joyn in the rest of the Petition. Divers of the Gentlemen that were there (there being not many that had set their hands) would not goe back from that, which with so much Humility and Reason, they thought was desired; thereupon my Lord would not deliver it, and went to the King. But they that thought not fit to have the Petition altered, thought not fit to go with him to the King; and what he said, he (the Examinant) knows not.

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Sir *William Pennyman* being Sworn and Interrogated, Whether a Warrant now shewed him, was not under His Hand and Seal?

He confessed it was his Hand and Seal.

Pennyman
Vid. 215

And that being desired to be read,

Sir *William Pennyman* offered to their Lordships, that he presumes he comes to be a Witness against my Lord of *Strafford*, not himself, and referred it to their Lordships, whether he should answer any thing against himself, this having an oblique aspect on himself, but if their Lordships will require him, he will submit.

But Mr. *Maynard* upon opening of the matter, shewing that they urge it only, as grounded on my Lord of *Strafford*'s Command for levying of Moneys.

Mr. *Maynard*.

It was read, being to this effect.

To the Constable of Sergeant-Major *Yarrowthe's* Company.

Whereas the Lord-Lieutenant-General of His Majesties Army, by His Majesties Command, sent forth Warrants to the Constable of this Weapontake of Longborough, for Collecting and Paying the Soldiers of my Regiment, Six weeks pay, to be delivered from my hands, which is not yet received from, &c.

These are therefore once more in His Majesties Name, to Will and Require you forthwith, to pay, or cause to be paid to the said Sergeant-Major, the several Rates and Proportions, both of the First and Second Contribution, Assessed on your Town, &c. And if any person or persons shall refuse so to do, you are instantly on receipt hereof, to bring him or them, &c. to serve in their own persons, for the defence of this County, as the necessity of this Cause requires; And hereof, &c. fail not 19 Octob. 1640.

William Pennyman.

Art. XXVII.

Sir *William Pennyman* being Asked, Whether the Warrant was grounded on a former Command of my Lord of *Strafford*?

He *Answered*, That he cannot directly speak to that, he will not charge his memory with it; for, he thinks, the first Warrant was issued by the Vice-President, and, whether any was issued by my Lord of *Strafford's* direction, he cannot Answer precisely, but he conceives there was; and, he hath a confused notion in his head, but he cannot particularly and distinctly remember it.

Being Asked, Whether he knew any Deputy-Lieutenants were drawn to issue a Warrant, to levy money on the Country on this ground, that the Lords of the Great Council had consented to it?

He *Answered*, That he conceives they were summoned thither together, and on this occasion; when the Trayned-Bands were disbanded, it was thought fit the Frontier-Regiments, viz. his (the Examinant) and Sir *Thomas Danbys*, should be continued, but he (the Examinant) Conceiving it unreasonable and unequal, that they should continue at their own Charge, and the rest not tributary to them; and, at least, they not being ordered to march successively to relieve them; he (the Examinant) complained thereof to my Lord of *Strafford*, they were thereupon sent for, and an Order was made, to which he (the Examinant) refers himself.

Being asked, Whether it was not to this effect, Whether those that would not pay their Money, should serve in Person?

He *Answered*, Sure he believes it was, for his Warrant is a relative Warrant to that other.

Being Asked, On what Grounds the Deputy Lieutenants were induced, to make such an Order? and, Whether it was not on an Allegation, that the Lords of the Great Council had Consented, or Commanded, it should be done?

He *Answered*, That he presumes it is matter of Record, if a man may say so, for the Warrant will speak: But, he presumes there was some such thing spoken by my Lord of *Strafford*, that he had acquainted His Majesty with it, or the Greatest Counsel, or to that effect, and that induced them to put that into the Preamble of the Order.

Being prest to speak his knowledge,

He *Answered*, That truly he verily believes it was so.

Being prest again to speak his knowledge positively.

He *Answered*, That he doth very Confidently and assuredly believe it is so, but he doth not particularly remember it, for it is a great

great while since he saw that Warrant : but, it is matter of Record, and if he sees a Copy of the Warrant, he shall let their Lordships know, whether it be a true Copy.

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Being prest further to Answer, Upon what ground it was made? And, whether upon an Allegation of a Consent, of the Lords of the great Council?

He *Answered*, That he cannot further Answer than before: he doth very confidently believe it to be so; for, he doth remember, my Lord of *Strafford* told them, he had acquainted the Kings Majesty, or the Lords of the Great Council, which induced them to put them into the preamble of the Order.

Being yet urged to answer Categorically.

He *Answered*, That he verily believes my Lord did so; and that under favour reaches almost to a knowledge, the thing is so notorious, that the thing it self may be known.

Being required to speak his knowledge, Whether my Lord of *Strafford* told them, the Lords had Commanded, or Consented to it?

He *Answered*, When that was spoken of, he was out of the Room, and it was drawn by Mr. *Rockley* a Deputy Lieutenant; but, Mr. *Rockley* told him my Lord did say so.

Being yet again prest to a positive Answer (Mr. *Maynard* observing to their Lordships, That when a Gentleman is brought upon his Oath in a Cause of this Consequence, this Dalliance is not to be admitted.)

He *Answered*, That he Answer'd as clearly as can be, And the Gentlemen will not press him beyond his knowledge; He says, he doth confidently believe it, but, under favour he was not at that time in the Room, but Mr. *Rockley* told him, My Lord of *Strafford* had acquainted the King and the Great Council.

Mr. *Maynard* observing, That now he speaks less then before; and desired he might be Interrogated, Whether at that time, or at any other time, my Lord of *Strafford* told him, The Lords of the Great Council had assented to this Levy.

Which being proposed;

He *Answered*, He doth confidently believe my Lord did it; It may be proved by a great many others; but he is confident of this, as of any thing in the World, that my Lord did tell them, when they went to draw the Warrant, That my Lord had acquainted the Lords of the Great Council, and His Majesty, and that he did it by their Consent; and, therefore they put it into the Preamble of their Order.

Sir Hen.

Art. XXVII.

Sir *Hen. Griffin* Sworn and Interrogated, Whether my Lord of *Strafford* said, The Lords of the Great Council had consented to the levying of Money?

Griffin,
Witness.

He *Answered*, He heard my Lord say so indeed (or else they had not set their hands to the Order) that he had direction from the Great Council, to levy Money for Sir *William Pennyman*, and Sir *Tho. Danbys* Regiments.

Being Interrogated, In what manner the Money was to be Levied?

He *Answered*, That he doth not know in what manner.

Lord *Clare*.

Being Asked (on my Lord of *Clare's* Motion) What he meant by this Direction?

He *Answered*, That there was an Order made from all them that were Deputy-Lieutenants, and my Lord of *Strafford* as one; and this is the Order concerning the levying of Money for the two Regiments.

Mr. *Glyn*.

Being Asked (on Mr. *Glyn's* Motion) Whether my Lord of *Strafford* had not directed the money to be levied in manner as is exprest in the Order?

He *Answered*, That to his best Remembrance, my Lord did say so, he must confess.

Being Asked, Whether in case any refused to pay this money, they were not to be compelled to serve in person?

He *Answered*, There was such a Clause in the Order, to his best Remembrance.

Mr. *Strickland*,
Witness,

Mr. *Robert Strickland* Sworn, and Interrogated, Whether my Lord of *Strafford* said, The Great Council had directed Warrants should be issued for the levying of Money?

He *Answered*, Yes. It cannot be deny'd: He (the Examinant) gave a Copy of that Order, when the last Commissioners were at *Rippon*; and he saw a Gentleman even now behind him, that had a Copy of the Order and Warrant, and it is declared, that it was done by the Great Council of the Peers.

Burroughes
Witness.

Sir *John Burroughes* Sworn and Interrogated, Whether he knew of any such VVarrant, or Order, for levying money for those two Regiments?

He humbly intreated, That he might have their Lordships direction, before he Answered the Question; for, their Lordships know very well, that, by His Majesties Command, he was appointed to be

be Clerk or Register of the Great Council : Moreover, he conceives, That (by his duty, all Orders and Resolutions of the House, especially those that concerned third Parties, without asking leave) he was to deliver to the parties, if they required them : But, for such Debates and Arguments, as were used in the Great Council, to and again, between their Lordships, he humbly intreated their Lordships Direction, VVhether he should publish any thing of them or no ? And, upon their Lordships Order, he shall clearly, and with all integrity, deliver the truth.

Artic.XXVII

Being permitted by their Lordships, to speak to the Questions propounded.

He proceeded, and said, That he hath very good cause to remember, that upon the 20th of *October*, he went to my Lords Commissioners for the Scotch Treaty at *Ripon*, and, upon that day, there were two prime Gentlemen of those parts, that came and attended the Lords, he thinks, about business of their own, and, he supposes, only to tender their service to their Lordships ; That, amongst some other Discourses betwixt the Lords and them, they mentioned some such Order as this was, concerning the relieving of the two Regiments, that were for the Guard of *Richmondshire*, and some other of those parts, made, as they said, by the Great Council of the Peers ; and thereupon, that themselves, my Lord of *Strafford*, and the rest of the Deputy-Lieutenants, had granted out VVarrants, for the Assessing of Money for the relieving of those Regiments ; Those that heard it were startled at the Order, being said to be an Order of the Great Council ; and commanded him (the Examinant) to inform them, VVhether he knew of any such Order ? he told them, He remembers not any such Order, and was confident he never drew up any, because he never heard any mention of those two Regiments in the Great Council. Their Lordships asking him, whether he was sure of it ? he told their Lordships he would look on his Notes, and faithfully inform them how the case stood, he did so, and came back to their Lordships, and told them he found nothing in his Notes of these Regiments ; and while he was there, he was confident no Order was drawn up ; It is true, (he told their Lordships) some Order might be drawn up, when he was absent, for he was first at *Ripon*, and at *Tork* he was oftentimes employed in the Committee to write Letters and Orders, and what was done in his absence, he could give no answer to ; but confident he was, no Order was made before the 20th of *October* by him, or in his hearing or knowledge. Hereupon the Lords desired those two Gentlemen, to give them Copies of the Warrants they had sent out, And that he (the Examinant) should take their Testimony, which he did ; this was the Twentieth or Twenty seventh of *October*, which was the last day of the Great Council of the Peers. My Lord of *Strafford* in Council then did take notice, that some such thing had been done at *Ripon*, and then said to my Lord, that

D d d d

he

Art. XXV II

he did conceive he had the Kings Order, and their Lordships Approbation, for the issuing out of this VVarrant. But, since, he conceived their Lordships disliked it, he had taken Copies of it, he was very willing to withdraw these Warrants; And, on Debate, there was nothing more done; For his part, he never drew up an Order, nor was he commanded to draw it up.

Being Asked (on my Lord of *Straffords* Motion) Whether on that last day, His Majesty was not pleased to say in the Council, That what the Earl of *Strafford* did in that Affair, was with His consent?

He *Answered*, It is true, He did give his consent to it, and commanded him to go on with it; when he (the Earl of *Strafford*) desired, if any thing were amiss in it, he might call back his Warrant again, and that he might easily do it, and no hurt would come of it; and, whether His Majesty did thereupon affirm, that my Lord of *Strafford* had formerly acquainted Him with it, and He Commanded him to go on?

He *Answered*, That it is very true, My Lord Deputy appealed to the King, VVhether he had not His Majesties Approbation and Order for it? and, the King said, He did acquaint Him with it before the Lords; But not (to his Knowledge) that He commanded him to proceed.

Being Asked (on my Lord of *Essex* motion) VVhether some of the Lords did not take exception at the VVarrant, and likewise thought fit, it should be called in again?

He *Answered*, That the Vote generally of the Lords was against the VVarrant; but, he remembers not any thing said for the recalling of it; but, they absolutely declined the making of any such VVarrant.

Being Asked (on my Lord of *Straffords* motion) VVhether it was Voted or no?

He *Answered*, That it was spoken to by several of my Lords, but all declined it.

Being Asked, VVhether he had the VVarrant, or a true Copy of it?

He *Answered*, He hath a Copy of that which was delivered him, by the two Gentlemen that were then at *Ripon*, and their hands are to it, to attest it; and, he saw them set their hands to it himself.

Being bid to name the two Gentlemen.

He said, They were Mr. *Robert Strickland*, and Mr. *Mallard*, VVho did affirm, That, to the best of their remembrance, this is a true Copy of the VVarrant, sent out to the several Divisions.

To

To prove Execution by force,

Art. XXVII.

Mr. *Henry Cholmeley* Interrogated, What he heard the Earl of *Strafford* say, touching the Vice-Presidents issuing of Warrants?

He *Answered*, That shortly after my Lord of *Straffords* coming to *York*, in the Presence-Chamber at *York*, he (the Examinant) among some other Gentlemen, were summoned to be there, where my Lord of *Strafford*, speaking of the Trained-Bands, occasion was offered by another that was there, How the private, or common-men should be maintained? My Lord of *Strafford* Answered, It had been always the Custom, that the private men should serve themselves in person, or maintain the charge of them that served for them; and, the common mens charge is borne by the several Constables in the Towns where they live: And, he said to His Majesty, Sir, if you please, Mr. Vice-President may, or shall (the Examinant knows not which) send out Warrants to that purpose; but, whether he sent out any or no, he cannot tell.

Cholmeley
Witness.

William Dowfen Sworn, and Interrogated, How he hath known those moneys for the Trained-Bands, levied?

He *Answered*, (His Answer being commanded by the Clark, the Witnesses having a low voice.) That Mr. *Taworth*, Sergeant-Major to Sir *William Pennyman*, came with Four Muskietiers to the Lordship of *Egton*, and sent them for Assessors, and when the Assessors came, they were importuned to have them Assess (for they had been unwilling to Assess) and, if they would not, they should answer it before my Lord General, and then they consented to Assess; and he shewed a Warrant from Sir *William Pennyman*, and gave it to the Constable for the Collection of the Money.

Dowfen,
Witness.

Being Asked, VVhether he threatned, That he should serve in person, if he did not pay?

He *Answered*, Yes, by Serjeant-Major *Taworth*, and so he served under Sir *William Pennymans* Regiment.

Being Asked (on my Lord of *Straffords* motion) VVhether he saw any VVarrant of his?

He *Answered*, No.

Being Asked, VVhether the Four Muskietiers did not go along with the Constable, from place to place to levy the money?

He *Answered*, Two Muskietiers went with every Constable to levy it.

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William Pierſon Sworn, and Interrogated, VWhether Four Musketers, or Soldiers, did not come to Collect this Money ?

Pierſon
Witness.

He *Answered*, Yes. And he ſaw them in the Town, go altogether in with the Conſtables ; but, in the Deales or outſides, there went but with each Conſtable one ; The Lordſhip conſiſts of Long Deales, diſtant one from another 12 ſcore, and, in thoſe out-places, one went with a Conſtable, but, in the Town, all four went.

Being Interrogated, By what VVarrant ?

He *Answered*, That he did ſee a VVarrant that was receiv'd from Captain *Taimorth*, under Sir *William Pennymans* hand, and he ſaw his name at it.

Sir *William Ingram* Sworn, and Interrogated, VWhat he hath heard my Lord of *Strafford* ſay, touching this buſineſs of levying Money ? and, What condition they were in that deny'd to pay it ?

Ingram,
Witness.

He *Answered*, That ſoon after the Trained-Bands were Commanded to be drawn forth, he found the opportunity, and did move my Lord of *Strafford*, acquainting him what Caſe Soldiers were in ; For he (the Examinant) had been with the Soldiers, and found them willing to March, if they might know how to be maintained : the Maſters had refuſed to pay the private men, and the Conſtables ſaid, the Pariſhes were ſo poor, that they could not collect any more money ; and deſired, his Lordſhip would be pleaſed, before they were drawn forth, he might know how they ſhould be maintained : And, his Lordſhip gave him this Anſwer, That the private men muſt maintain their Soldiers after the rate of 8 *d.* a day, ſo long as they were forth, elſe he would Commit them, and order ſhould be taken, the Soldiers ſhould be maintained after 8 *d.* a day, out of their Eſtates ; And commanded him (the Examinant) to ſpeak to the Conſtables, that Aſſeſſments might be made for the maintenance of the Common Army ; and, if any did refuſe to pay their parts of an Aſſeſſment, they ſhould be likewise committed to Priſon, and lie there, and the Common Soldiers ſhould be maintained after the rate of 8 *d.* a day ; and, he would have men know, that refuſing to pay ſuch Contribution, they were in little better condition, than guilty of High-Treaſon.

Sir *Harry Griffin* being Interrogated, VWhether my Lord of *Strafford* ſent not Meſſengers to them, that refuſed to pay this Money Aſſeſſed ?

Griffin,
Witness.

He *Answered*, That indeed he doth not know of any thing concerning the two Regiments of Sir *William Pennyman*, and Sir *Thomas Danby* ; but, for his own, he can ſpeak, That about the latter end of *Auguſt* laſt, he was commanded by the Sergeant Mayor-General of the Trained-Bands, to advance his Regiment ; and, aſſoon

asoon as they were advanced, there issued forth assessments for a whole Monthes pay, for his whole Regiment; and, on this Warrant he received 300 *l.* or thereabouts, but more they would not, nor could not pay; whereupon he went to my Lord of *Strafford*, and told him, He could not keep his Companies together without Money; and my Lord bid him go back to his Regiment, and he would take a Course, and my Lord did grant forth his Warrant, and on that was pleased to send a Messenger (as he thinks) to the Constable, to whom it was directed, and the Messengers went from Constable to Constable, and all was paid.

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Being asked (on my Lord of *Strafford*s motion) whether it were paid voluntarily?

He *Answered*, They were for ought he knows.

Sir *Hugh Cholmley* being Interrogated (on Mr. *Maynards* motion) of what Quality those persons were, that staid with my Lord of *Strafford*, and joyned in the latter Petition? and, Whether many of them were not Reluctants?

He *Answered*, That there were some of them Gentlemen of very good Quality, a few that had retracted their hands from the Petition, some 7 or 8, and he doth not know, whether there were not many Papists, but they took a Note of four or six and twenty, to his best remembrance, that the Country had a Character on them to be Papists, and Men affected that way, but he knows not whether they were Convicted or no.

Cholmley,
Witness.

And so Mr. *Maynard* said, they should leave this *Article* a while, in expectation of my Lord of *Strafford*s Answer, and then they should recollect their proofs; in the mean time they supposed every particular was proved.

Mr. *Maynard*.

My Lord of *Strafford*, after some time granted him to recollect his Notes, made his Defence in substance as follows.

And First, he desired leave to read the Charge, and their Lordships should find, how little of the matter opened before them this day, was therein contained, and so he is not accountable for it.

E. of *Strafford*s
Defence.

He read the 27th *Article*.

That in or about the moneth of *August* last, &c. His Lordship craved liberty to dissent from that worthy Gentleman that spoke last, who in his opinion, is very much mistaken, who was pleased to say, That all was fully proved; for he conceives, little or nothing is proved as to him.

That he might give their Lordships the clear satisfaction, he desired to go on in their own Order; and as the Proofs were offered, he shall offer his Answers.

The First thing spoken of, is a Petition drawn up by certain Gentlemen, whereby they did offer a months pay to the Trained-Bands, which

Petition

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Petition was shewed the Defendant, and was refused by him to be delivered, and the Reason assigned is, because in the latter part there is contained a Petition for calling of a Parliament, and that is laid to him as a Crime, but where it is, he doth not find, and when he doth, he shall answer and acknowledge it.

He acknowledged there was such a Petition, and that it was shewed to him, and having not been acquainted with it formerly, he remembers very well, he desired to be excused from meddling with it; for having the Honor at that time to be the Kings Lieutenant of the County; besides that, he was Lieutenant-General of the Army, and having some poor share there, though not so great as other men, he thought it very strange, that when the King had appointed them on Tuesday to meet together, and advise how his service might be complied with, they should at a private meeting after Supper, resolve of this Petition, and never make him so much as acquainted with it; And where he was made so great a stranger in the beginning of the business, he appeals to their Lordships whether he had reason to be over officious, to serve them in the conclusion.

He acknowledges the Petition was delivered him, and on the reading of it, when he heard that clause, of moving the King for a Parliament, he disadvised it, and desired to be excused concerning it, not so fitting at that time, nor for them on such an occasion: and therefore it might be left out, or a course taken to deliver it by some other hand than his; and he trusts it is no offence, for which he is any way punishable, to reserve that Christian Liberty in his own opinion, that he sees cause for, when it may be done without breach of any Law penal, or good manners, his Liberty being as free then to himself, as to them. But it was not out of any unwillingness the Parliament should be called; upon which they should pinch him; and make their Lordships and the Gentlemen think him averse from Parliaments, for he did tell them at that time, he was confident there would be a Parliament; and that on the coming together of the Great Council of the Peers, he did conceive His Majesty would be pleased to call a Parliament; and that their Petition would neither further nor hinder it, and therefore it might be forborn, and the King left in his Acts of Grace to his People, that he might have all the Honor of it to himself; and that it should rise out of his Own Goodness, and Royal Breast, not as advised to it on the desire of any body else; and therefore he thought not fit that that should be put into the Petition, not out of a desire to avoid Parliaments; for it is well enough known, (and if need were) he could justify himself in it, that no poor servant the King had, was more forward, nor ready, nor willing to advise the calling of this Parliament, than he was: but he shall ever conceive it fit in this case, to reserve the Honor of the Kings Grace and Favour, as much as may be to himself, and not direct it to any other hand whatsoever, and did then (as always) as much as he could, apply the thanks of the People to the King his Master, and assume nothing to himself.

But this he conceives no crime, and therefore he shall not need to trouble their Lordships with proof of it, there being 20^o Gentlemen in the room (he dares say) that will justify him in this particular.

They come then and speak of a second message, to have been delivered by him to His Majesty at *York*; hereby he is charged to have imposed a Tax without lawful Warrant; he humbly affirms, and trusts, he shall manifestly prove it, that the thing was yielded to by their own universal

Assent,

Assent, and that it was levied by their own voluntary Will; and that there was nothing of force from the beginning to the ending of the business; for if he had dealt in that manner, he had been much to blame, tho as he stood then qualified, he thinks himself not punishable for it. On Debate of the business, not above three or four dissented, tho there were Two hundred present, they were perswaded and convinced, it was just and necessary to contribute, and most of them that did dissent, have been examined before their Lordships; but they did absolutely and totally lay aside their Petition, and gave him Commission only in words, to signify to His Majesty, that they were most willing and ready to contribute the pay of a Month, for maintainance of the Trained-Bands, and that he did faithfully deliver.

And whereas it is said they are Papists, he shall name persons as free from that Tax, as any men in the Shire, who did give their consent, and he named divers of them.

To prove that he did nothing by force, but by unanimous consent of all.

Sir Paul Neal was first called, and being Interrogated, Whether the Petition Signed by the Lord Wharton, and the rest, was not by the major of the Gentlemen there declined and laid aside?

He Answered, That he was amongst divers others, present at this meeting in the Common-Hall, and on the first coming thither, this Petition was presented by my Lord Wharton in the name of the Gentlemen that had subscribed it; on the reading of the Petition, my Lord of Strafford did conceive, that the clause concerning the desire of a Parliament was in it self superfluous, because the King had declared his intention to have one, if at the meeting of their Lordships at York it should be desired; and therefore he desired the clause might be put out, and another Petition presented to the effect of the former, only the last clause omitted, and that might be verbally presented by some such man, as the major part of the company should choose, and on a long debate, it was concluded (to the best of his remembrance) by Vote, and the whole Vote of the company went, it should be delivered by my Lord of Strafford, according to the substance of the Petition, the last clause left out; and to the negative part, there were some four or five, he dares confidently swear, not above halfe a score.

Neal.
Witness.

Being asked, what number there was of the company, that were willing to wave the Petition?

He Answered, That the Hall was very full; he cannot give account of a certain number, nor knew the subscription of the Petition, for till now he remembers not, that ever he heard the particular names read; but there was, he thinks 200 Gentlemen of several ranks.

Being asked whether it was not the voluntary consent of them all, that a months entertainment should be allowed the Trained Bands?

He

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He *Answered*, That he conceives the consent was given no fuller nor larger, but just the same as in the Petition, saving that one clause.

Which Mr. *Maynard* observed, went not further than to promise an endeavor.

Sir *Paul Neal* being Interrogated, whether the Money was not voluntarily paid all over the Countrey, for the months entertainment, with force or violence?

He *Answered*, he can give no answer to that, having nothing to do in the Countrey as Deputy-Lieutenant, or Officer, and other than he heard by discourse, he cannot speak of his knowledge,

Being asked (on Mr. *Glyn*s motion) Whether the major part of them that Signed the Petition, did wave it?

He *Answered*, That he conceives he gave an Answer to that before, for he remembers not, that till this day, he ever knew the names of the Gentlemen that subscribed it, but only an attestation, that about 100 had subscribed, and whether the major part of those were present, he doth not know.

Being asked (on my Lord of *Strafford*s motion) Whether he did not know divers of them that Signed the Petition, declared themselves for the waving of it?

He *Answered*, He did not know who had Signed it, and who not, saving only some Gentlemen speaking in the debate, did declare, that they in particular had Signed it, and did recede from it.

Being asked what he meant when he said, that not above halfe a score went to the negative of the Message?

He *Answered*, That he meant it of them that were in the Hall.

Sir *Edward Osborne* was called to be a Witness for my Lord of *Strafford*, but Mr. *Maynard* excepted against his being examined, as being one of them that sent out the Warrant, for paying Money on pain of death, and as Sir *William Pennyman* would have declined answering any thing of his own Act, as concerning himself, so it was desired this Gentleman might not be examined to the justification of himself by saying, the Money was levied by consent.

But Sir *Edward* alledged to their Lordships, That there is particular complaint in the Petition against his Warrant, and therefore it was issued long before the Petition presented.

After some further debate, the Examination of him was resolved upon.

Sir *Edward Osborne* being Interrogated, Whether the major part of them that subscribed the Petition, and were present at the second meeting, did not decline the Petition?

He

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Osborne,
Witness.

He *Answered*, That he cannot say the major part of them that subscribed the Petition, did dissent openly in the Hall, for he thinks many of them were gone out of Town, but he is sure, the major part there, nay all, but about Ten, did consent to the leaving out of the clause, touching the Parliament, and to a Months pay; and on that, it was humbly moved to my Lord (he cannot tell whether by himself the Examinant) that my Lord would do them the Honor, to represent their ready affections to do the King that service, that he would be their Mouth, which accordingly his Lordship did, and they all attended him when he delivered the Message; and he doth not remember there was above 4 or 5 Gentlemen, that opened their mouths against this consent, not in words, what their hearts were he cannot tell.

Being asked, Whether many that had subscribed the Petition, did not declare they would not wave it, and go the other way?

He *Answered*, There were some that did indeed, but he doth not know how many, Sir *Edward Robinson* in particular, and gave his reasons for it, Sir *Richard Hutton* and some others.

Being asked, how many Gentlemen he thinks were present at that meeting?

He *Answered*, The Hall was very full, and there were Gentlemen, Freeholders and others, to the number of 300, as near as he could imagine.

Being asked, Whether that was not the place and time appointed by the King, for the Countrey to meet and Treat about the business?

He *Answered*, Yes, it was so, by His Majesties special Command, the day before.

Being asked, whether my Lord of *Strafford* did not go to the Mannor, and many Gentlemen with him, and delivered their Message to the King faithfully and justly, as he had in Commission to do, and no otherwise?

He *Answered*, That according to their desire to his Lordship, he went presently to the Mannor; and they all attended him, but he could not hear the Message delivered, the croud was so great.

Being asked (on Mr. *Maynards* motion) whether there was any difference between the Message and Petition, but only the leaving out the last clause touching the Parliament?

He *Answered*, Truly No, but the principal things he took notice of, was a Months pay.

E e e e

Being

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Being asked (on Mr. *Palmer's* motion) of what quality they were that were in the Hall, whether not some that came to gaze only, and not prosecute the matter of the Petition?

He *Answered*, That it is impossible for him to see through the bodies of men; but there were not many of inferior quality that he knew; but had he time to do it, they should make a Catalogue of as many Gentlemen and Freeholders, as set their Hand to the Petition: but he cannot see in such a room as this, whether there be Serving-men, or Apprentizes in a croud.

Mr. *Maynard*.

To which Mr. *Maynard* answered, much less can he hear it.

Sir *William Pennyman* Interrogated, whether the Petition deliver'd by my Lord *Wharton*, was by the major part of the Gentlemen that met, according to the Kings appointment, at the place proper for the business, declined? And whether they did not declare their consent to a Months pay, and that my Lord of *Strafford* should deliver the Message by word of mouth?

Pennyman.
Witness.

He *Answered*, That the major part did decline the delivery of the Petition, and it was done upon a Vote, there being some difference of opinion, and he thinks truly, according to his conjecture, there were 200 voices at the least, to three or four. Happily some others tacitly might be of another opinion, but there was to his best remembrance, three or four voted against it.

Being asked, whether divers that Signed it, did not decline it?

He *Answered*, That divers that set their Hands to the Petition did retract it, whereof he himself was one, and divers other Members of the House, whom he offered to name, if their Lordships required it, but that their Lordships did not think fit to direct.

Being asked, Whether my Lord of *Strafford* did not faithfully and rightfully present to His Majesty, the Message, he was intrusted with?

He *Answered*, That he was one of them that went with my Lord, but was in the same condition with Sir *Edward Osborne*, for the crowd was so great that he could not come to hear.

E. of *Strafford*

Where my Lord of *Strafford* desired their Lordships to take notice, that it was not in a corner when Gentlemen of their Quality could not come near.

Being asked (on Mr. *Maynards* motion) Whether there was to be any difference, between what was to be delivered to the King, and that contained in the Petition, the last Clause excepted?

He *Answered*, That he conceives nothing was to be omitted, but only that of the Parliament.

L. *Wharton*.

Being asked (on the Lord *Whartons* motion) Whether he and another had

had not Commission, to acquaint my Lord of *Strafford* from them that had subscribed the Petition, that they had a Petition to be deliver'd his Lordship for His Majesty, and whether he brought not word back again, that they should wait on his Lordship with the Petition on Saturday, at One or Two of the clock, and at his Lordships own house, and whether they did not accordingly wait on him?

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L. Wharton.

He *Answered*, That he did, and they did come, and it was purposely, that they might most of them goe to the Hall, not to make my Lords House a place of his debate.

Pennyman
Witness.

Being asked, whether he was not directed to acquaint my Lord of *Strafford* with the Petition, and whether he brought back word about the time of attending?

He *Answered*, It is true he did, but he knows not whether he brought it on a Message from my Lord.

Being urged to Answer that positively, Whether he brought it as a Message from my Lord.

He *Answered*, That it may very well be he did, he thinks he did; but he added, in effect his desire was to know, what the Question tended to.

Mr. *Maynard* thereupon desired of their Lordships, that a Witness at the Bar might not demand the meaning of a Question, before he answers to the truth of it.

Mr. Maynard.

And Mr. *Glyn* observed, that my Lord of *Strafford* had several times besought, he might go on quietly with his Evidence, and they hope their Lordships will justify them, that they have behaved themselves as men intrusted by the House of Commons, and that their Lordships will not suffer this Language to be used. They must demand Justice.

Mr. Glyn.

And Mr. *Maynard* added, that they desire only that the Witness may readily answer to the Question propounded, and not advise, what may be the consequence, or enquire the intention of them, for they are to speak only the truth.

Mr. Maynard.

But my Lord of *Strafford* conceived it a very fitting Question for the Witness, to desire to understand the Question before he answers it, and that's all he doth, as he conceives.

E. Strafford.

Being required to answer positively, whether he brought that Message from my Lord of *Strafford*, touching the time of delivering the Petition?

He *Answered*, That he did.

Pennyman
Witness.

My Lord of *Strafford* here offered to their Lordships, that he conceives this Question not material to him, he was then extream sick, and

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and in his sick Bed, when he should send this Message; and that truly, he was never in such height of incivility towards any man alive of a far meaner Quality than my Lord *Wharton*, as to send them word, they should attend him at such an hour, he knows what belongs to my Lord *Wharton*, and what to himself, much better, than to send for, or expect any attendance from his Lordship.

Sir *William Savill* being Interrogated, whether the Petition Signed as aforesaid, was not absolutely by the major part of them in the Hall declined, and voted, that it should not be delivered?

Savill Witnesses.

He Answered, That he was there, and by the major part of the Gentlemen present, it was delivered, and consented, that my Lord should deliver the substance of the Petition to the King, by word of mouth, saving the last Clause concerning the Parliament.

Being asked, Whether there were not divers that Signed it, who did afterwards retract it? And whether himself did not?

He Answered there were, and that he himself Signed the former Petition, and then it came to be disputed before them, whether they should retract it or no? he was against the retracting of it, and many delivered Votes against it, under so he believes, and for his own part he said nothing to it; but it was carried so clearly by the opinion of them present, that he went along with a great number of Gentlemen, that went with my Lord to the King, and he heard my Lord faithfully deliver the substance of the Petition in every thing, and with more advantage to them than the Petition was drawn, except the business of the Parliament.

Being asked, whether part of it was not the consent to a months pay of the Trained Bands?

He Answered, That he verily believes it was the intention of them all, that a months pay should be paid to the Soldiers of the Countrey, and the months pay was paid.

Being asked, Whether it was not willingly and voluntarily paid in every place without constraint, to his knowledge?

He Answered, That in that part where he lived, no body denied whatsoever was asked, so there was no pressing of any body to pay a penny, nor complaint of any body for want of Money.

Pennyman Witnesses.

Sir *William Pennyman* being asked to the said last point?

He Answered, That it was with a great deal of alacrity and cheerfulness, and he heard no man repine at it, then nor since.

Sir

Sir *Edward Osborne* Interrogated to that Point ?

Answered, He never knew of any forcible course to make men pay it, but it was freely paid.

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Osborne
Witness.

Sir *William Savill* being Interrogated, How many of them that set their hands to the Petition, did Vote against it ?

He *Answered*, That there were of them that set their hands to the Petition 10, who did vote the retraction of it, and he named Sir *Francis Wortley*, Sir *Thomas Danby*, Sir *George Wentworth* of *Wol-ley* (as he thinks) and Sir *Edward Rhodes*.

Savill Wit-
ness.

Sir *Edward Rhodes* Interrogated, Whether the Country did intrust my Lord of *Strafford*, to deliver a Message to His Majesty, declaring their consent to a Moneths pay, &c.

He *Answer'd*, That after long debate, Whether the Petition should be presented or no ? it was by plurality of voices, declined and waved ; and, it was moved to my Lord, that he should present the Requests of the Gentlemen then met, or the plurality of them to His Majesty to this purpose, That having demanded two Moneths pay, the Gentlemen of the Country made that request to my Lord, humbly to beseech His Majesty to accept of one Moneths pay, which his Lordship did, and His Majesty was graciously pleased to accept of it, having formerly given them encouragement for the abatement of 4000 men of the Trained Bands after those Troubles were past ; and, if any Gentleman suffered in that Service, there should be no benefit taken of his Wardship, and when my Lord presented the desire of the Gentlemen to His Majesty, He was pleased, in stead of taking of 4000, to promise to reduce the Trained-Bands to 6000.

Rhodes Wit-
ness.

Being Asked what number of Gentlemen were in the Hall ? and, Whether that was not the place appointed for the County, to Consult about the business ?

He *Answered*, That he thinks that there was 300 at the least, of the one and the other ; and for the place and time, it was both the place and time, and that was an Exception my Lord of *Strafford* took, but he was not fairly dealt withal, that in regard His Majesty gave direction, that at such a time, and such a place, my Lord President (by that name His Majesty was pleased to call him) and the Gentlemen of the Countrey should consider the business ; my Lord thought much a Petition should be drawn without his Consent, and that the business should be Concluded before the time, and from the place of debate.

Being Asked, How many dissented from this Court ?

He *Answered*, He thinks not above 20, if there were so many.

Being

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Being Asked, Whether diverse that signed the Petition, did not retract it? and, amongst the rest, himself?

He *Answered*, Diverse did retract it; and, himself gave his voice for the waving of it: but, he cannot say he retracted it, for his hand was not to the Petition.

Being Asked, Whether my Lord of *Strafford* had not Commission from the County, to offer a full moneths pay of the Trained-Bands?

He *Answered*, It was the desire of the Country, That his Lordship would be pleased to entreat His Majesty, to accept of a moneths pay, being desired by the King.

Being Asked, Whether they were not willing to pay it in that part of the Country, where he lives?

He *Answered*, That where he served as Deputy-Lieutenant, he knows not of one man that Complained, or shew'd unwillingness, or any difference, but only in the proportion between man and man.

Being Asked, Whether my Lord of *Strafford* did not faithfully relate the Message to the King, according to the Commission the Country gave him?

He *Answered*, That he conceives he did it most faithfully, and with great advantage to the Country.

Sir *Tho. Danby* being Interrogated to the matter of the Petition, and the declining of it; the Consenting of a Moneths pay; the Cheerfulness in paying of it.

Danby Witness

He *Answered*.

That the Petition was delivered.

That the Money was paid with a great deal of cheerfulness.

That they were content to come to a Moneths pay.

That he heard of no man that declared to deny it.

Being Asked (on Mr. *Maynards* motion) Whether any other direction was given for the Message, besides the Petition, the last clause excepted?

He *Answered*, That one taken off, my Lord was to deliver the Substance of the Petition.

Being Asked (on Mr. *Maynards* motion) Whether there were not two Trained-Soldiers hang'd up, for Mutinying for want of Pay?

Mr. *Maynard*.

Mr. *Maynard* thence observing, That if they had been well paid, there had been no want of it.

He

He *Answered*, That he cannot Answer to that without some prejudice to himself; he being question'd for hanging men by Martial-Law.

Sir George Wentworth of Wolley being Interrogated, Whether he was not present at the Hall, where the Petition was spoke of? and, Whether a moneths pay was not consented to?

He *Answered*, He was present, and the Petition was declined by the Major number; there was a great number in the Hall, and my Lord delivered it accordingly to the King. He was present when he presented all the grievances exprest in the Petition, and left out only that part concerning the Parliament.

Wentworth,
Witness.

Being Asked, Whether my Lord of Strafford had authority to acquaint the King, There should be a Moneths pay?

He *Answered*, Yes: and, the place of Debating was the Common-Hall; and, diverse that signed the former Petition, did retract it, and himself was one of them.

Being Asked, Whether the Money was not paid willingly by every man, without Force and Constraint?

He *Answered*, That he was a Collonel, and it was paid him very well.

The next thing my Lord of Strafford observed, was, concerning a War-rant alleadged to be given out by him, for levying of a Fortnights pay to the Two Regiments of Sir William Pennyman, and Sir Tho. Danby. If in any thing in his Answer he be mistaken, he had rather submit it than dispute it; and, if it please their Lordships to favour him so far, he will, as near as he can, tell every thing that passed; and, he hopes, diverse of their Lordships will remember a great part of it.

E. of Strafford

It is very true, before this moneth was ended, (he is sure within it) the King Licensed all the Trained-Bands to go home again, save the two Regiments, one for *Richmondshire*, and the other for *Cleveland*, which, by His Majesties exprest Command, and Council of War, were required, one to remain at *Taram*, the other in *Richmondshire*, to preserve them from those of the other side.

Sir William Pennyman and some others finding, that by this means these Regiments continuing in pay, fell to be grievous to that part of the Hundred; Those two Hundreds, or Weapontakes acquainted him (the Earl of Strafford) with it, out of no particular end in the World, but that with Equality and Justice in that common misfortune, they might all bear the Common Burden.

Divers of their Lordships being there at *Rippon*, he did humbly present to the King, before the Great Council of my Lords at *Yorke*, That he conceived if the whole Charge of those two Regiments should lie on those two Hundreds, it would impoverish and undoe them; and therefore he conceived it Justice and Reason, that the rest of the County should contribute towards the Charge (the benefit being common to all) or else they should

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should successively relieve those Regiments, that the burden of all might lie equal on all.

This was his intention, and he hopes it was fair, and if not as it ought to be, yet it was done with a very good heart, and justly intended: This he moving at that time, His Majesty was pleased to assent to it, and lik'd it very well, and gave direction he should proceed; whereupon he said, Then if my Lords approve of it, he shall see it done accordingly. There were diverse of the Lords then said yes; and thereupon he took it for granted, that it was their Consent.

If in this he did mistake, of their Lordships, he humbly craves their pardon, it being far from him to prejudice any man living in that relation, and, that it was so, he thinks a Noble Peer, then present, (*viz.* my Lord of St. *Albanes*) will remember, that diverse on the Motion did say, yes; and thereupon he took it to be a thing granted.

And, that as my Lord of St. *Albanes*, who being gone home indisposed in his health, my Lord of *Strafford* desired he might reserve himself the benefit of his Examination, if he shall see cause, though he hopes there will be no need of it.

After this, he understanding that some of their Lordships at *Rippon* were not satisfied, because the Great Council was named for the Author of the Warrant; the very last day the Great Council sate at *Torke* (their Lordships being then come back from *Rippon*) he moved it to the King, and gave the same Relation there, that he makes here before their Lordships, desiring to know their pleasure, whether the Warrant should be recalled or no? for he could then easily do it: Nothing being done upon it. Under favour, some of their Lordships said, The Great Council had no power to levy Money; To which he Answered, That the Warrant was not to levy Money, but that the parties concerned should do their duties themselves, or otherwise pay the Money. At that time it pleased His Majesty to Command him to go on; and, after the King had spoken, no man spake to the contrary, and so the Warrant was not recalled; but, the Moneys were paid voluntarily, no force or constraint being put upon any, but they took it as a great benefit that they had that favour, as for his part he conceived it was: And, all himself got by it, was, That, by this means himself, and all his Tenants, and those that had relation to him, came to pay their proportionable shares, which otherwise should not have paid a Farthing, (for they were at a great distance in the *West-riding*) and they paid it voluntarily, and willingly; and, when he spake with the Deputy-Lieutenants, they all conceived it a benefit, and advantage to the Country; and, it was done with their Consent, and a great Ease, and a Burden to no man,

So he acknowledges such a Warrant was granted, but nothing of force or constraint,

Strickland,
Witness.

Mr. *Ro. Strickland* Interrogated, Whether he conceived not this a great ease to the Country, thus to lay the last Fortnights Pay for the two Regiments? And stood with his Advise, and the Advise of his Lieutenants?

He Answered, That it was very well paid for any thing he knows, but the most part of it, if it was paid, was paid after he came to *London*. But, he conceives, that if those Regiments must stand, or the other March up to their Reliefe, it was for the ease of the

the Country, and so he conceived then, otherwise he should not have subscribed the Warrant: and, it had laid heavy on those Divisions, where the two Regiments of Sir *William Pennyman*, and Sir *Thomas Danby* lay, who had been undone by it; It was done meerly for their Relief, without any ill intent whatsoever.

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Sir *Edward Osborne* Interrogated, What he thinks of the Course? and, Whether he consented not to it, as a very great Advantage?

Edw. Osborne.

He Answered, The Question being propounded by my Lord Lieutenant to the Deputy Lieutenants, Whether two Regiments that lived on the place, the Frontier of the *North-Riding*, should be paid by the Countries Contributing, or their Charge, or the Country to send their Regiments for relief of these two; they conceived it was a mighty ease and benefit to the Country to pay the two Regiments, and the rest of the Trained-Bands continue; For, some of them must March 70 miles in way, and 70 miles backwards, and, some of them that lay there, never stirred out of their own Towns: and therefore they were of opinion, It was a marvellous ease.

Being Asked, Whether this Fortnights Pay was voluntarily paid in the Parts where he lived? and, Whether Force was used?

He Answered, He lived at *York* altogether, and cannot tell: But, some Officers asking, What they should do for the Moneys that are behind for relief of the two Regiments? my Lord Answered, That which will be willingly and freely paid, you must take it; that which will not, you must let it alone: and, this was four or five dayes before my Lord of *Strafford* came from *York*.

Sir *William Pennyman* being Interrogated, touching the Convenience and Ease of this Course?

Wil. Pennyman,

He Answered, That he conceives it very easie and advantagious, for else some of the Regiments must have marched 70 miles, and it would have taken up a great part of the Charge, in the very March.

My Lord of *Strafford* added, That he would prove it by all the Deputy Lieutenants that were there, that no Force or Constraint was put upon any man by him, nor is there any proofes to prove Force: There be onely two things insisted on; One is the Warrant of Sir *Edward Osborne*, that they should pay Money on peril of their Lives; He denies that he signed any such Warrant; and, he is sure there is none under his hand: If they have it to show, he desires they would shew it; if they do not, then their Lordships Judgments will acquit him of it. The other is Sergeant Major *Towards* Warrant, and a fellow that tells a Tale of Muskiteers, and sayes, there was a Warrant of his; But, he sayes, he made no such Warrant; he gave no direction for it; neither is there any such Warrant shown; and, he trusts, that will acquit him of that too: And, if there be any thing of Crime in the business, it must be, that they have been constrained

E. of Strafford.

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by force, to pay the Moneys; for, if it be voluntarily offered to take or leave, this can be no Crime; and, that there was any force, or any Warrant issued by him, he denies: And, by this time, he thinks he hath cleared himself against all the matters charged in this Article.

But, he conceives, he hath done nothing, but that he had Commission and power to do, though he never had acquainted the Great Council with it under favour: It is true, he was alwayes desirous, to have the assistance of Men wiser than himself; and, when there was means or opportunity to gain it, he took it: But, if he had been in *Yorkshire* all alone, having the Power and Commission he then had (though His Majesty and their Lordships had not been there) he conceives he might have Justified the doing of as much, as he hath done in this Parliament; his Commission under the Seal of my Lord Admiral being in effect,

FOr the better Execution of this our Commission, we do further give and grant to you full Power and Authority, from time to time, and at all times at your discretion, to command, and require of and from all our Lieutenants, and Deputy-Lieutenants in our several Counties of this our Realm and Dominion of Wales, and of and from every, or any of them, to send to you, or such place as you shall appoint, such number of able Men for the War, as well Horsemen as Footmen, in the said Counties respectively, or otherwise, sufficiently Armed and Furnished, as you in your discretion shall appoint and require.

And, he did not send them to pay any Money, but to relieve by turnes, Regiment after Regiment; and, if they found it for their ease, they might be at the Charge, else do the Duty required, which, by the Common Allegiance, every man is bound to do. Say then he had committed an Error, he had rather confess than justifie it, as long as it is not brought to him as a Crime.

But, there is another clause, according to the Statute of 11 H. 7. viz.

ANd further, our pleasure is, and we do give and grant for us, our heirs and successors, that whatsoever you, or any other person, or persons of what degree soever, by your Commission, Warrant, or Command shall do, by vertue of this our Commission, or Letters Patents, or according to the Instructions aforesaid, or the purport of this our Commission, touching the Execution of the premises, both you, and the said persons, in shewing forth these our Letters-patents, or the Constat, or Inrollment thereof, shall be discharged and acquitted against us, our heires and successors, and freed from all Impeachment, and other molestation for the same.

He did this without sinister ends, or by-respects; and therefore if he did any way err, by His Majesties own gracious clause, he is to be excused; And, it is pursuing to the Statute of 11 H. 7. c. 1. where the Preamble is very observable.

THe King, our Sovereign Lord, recalling to his Remembrance the Duty and Allegiance of His Subjects, and that they, by reason of the same, are bound to serve the King for the time to come in His Wars, against every Rebellion, and Power, and Might, &c. and whatsoever falls against the mind of the Prince; and, that it is against all Law, Reason and Conscience, that attending His Person, or being in other places of His Command, any should lose or forfeit for doing their true Service and Obedience. Be it therefore Enacted, &c. That from henceforth, no manner of Person, or persons whatsoever, that attends the King in His Person, and do Him true Allegiance in His Person, or be in other places in His Wars, for the said Deed, or true Duty, he and they shall be any way convicted, and Attainted of Treason, nor of any other Offence by any Process of Law, whereby he shall forfeit Lands, Goods, Tenements, &c. and shall be for that Deed and Service utterly discharged of any Vexation, &c.

So that he conceives he hath done nothing, but what may receive a fair and equal interpretation; what he hath done, he hath done very candidly, and clearly, for the good of His Masters Service, and preservation of the Country; and he hath done nothing violently, or deliberately, to force Men to do things, that may any way trench on the Propriety or Liberty of the Subject: and, whatsoever evil he may have committed in this, he hopes, by the Act of Parliament, and by the words of the Commission read, he shall stand before their Lordships (in point of Justice, and Noble Compassion to a Man that may erre) Acquitted from any part of that Charge, that may accuse him of High Treason.

Onely one thing he hath omitted, and that is the Testimony of Sir William Ingram, where he Charges me with saying, *The refusers to pay the Money are in little better condition, than guilty of High Treason.* But he is a single Testimony; and he sayes, That clearly underfavour it is no mean offence for any Man, to deny the Common Allegiance due to the King, for Defence of His VVars: But, the words are testified to be spoken onely to one Man, and he is not Accomptable to him, nor to their Lordships, for that, he being but a single Testimony.

Mr. Maynard began to Reply to the said Defence in substance, as followeth.

Mr. Maynard.

That whereas my Lord sayes, They have urged much that, which was not Charged; his Lordship hath Answered, that which was not Objected as a Charge: for, the greatest part of the time he hath spent in examining so many VVitneses, is, to shew on what grounds the first Petition was deserted, and a Message put on his Lordship to deliver to the King: The Petition was not offered to him as a matter of Charge, but it is charged upon him, that he procured to levy and impole Money upon the Country by force, without a legal VVarrant, and, by way of excuse, in his Answer, he sets forth, that the Country did yield to it by their Unanimous consent. To that purpose it was objected to him, Not that the delivery of the Message was a Crime (and therefore he might have spared this labour to Answer it, as to that purpose)

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But, as himself states the Case, he hath much encreased, rather then diminished his Fault; for, he said, There was a Consent; yet, it appears, there were but 109 principal Gentlemen parties in the first Petition, and he encounters these to 200 met together; the greater part of whom consenting, and 100 of them that had subscribed, and about 5 dissenting, they resolve of a Message to be delivered touching consent; But, they have proved, not only a Leavy for the first moneth, but much more; though when the Gentry met together, and consented to a Petition, it is no desertion of that Petition, because 10 of 109 deserted, especially when they had a Message from my Lord to meet about it, and, relying upon it, went into the Country: besides, 200 Gentlemen Freeholders, and others, could not lay a Charge on the rest of the Country, nor bind them that had dissented before, and whose consent was not involved; and, it is no legal way to raise Money by Warrant, much less by Force.

For the Money levied after the Moneth expired, my Lord hath offered no Colour to their Lordships; for first, the ground whereupon he raised it, was contrary to that which was the truth, viz. the Consent of the Lords of the Great Council; whereas it appear'd, and shall appear further, there was no such Consent.

My Lord of *Strafford* would next justify it by a Commission, but that doth only require people, according to their Allegiance, to give attendance; and, this is turned into a matter of laying of Money: for, the first point of the Warrant is, to pay the Money Assessed, and, if they will not, they shall attend, so that what is matter of service is turned out of its Course, and this is a high abuse of his power, which makes that matter of Money, which should be matter of Service; and, by this meanes, awes men to pay money.

The Country, on demand of His Majesty, did consent to a Moneths pay, but, my Lord, without their consent, extends it beyond, and pretends an Order (to say no more of it) when there was no such thing, to draw some Deputy-Lieutenants together, and, when they are drawn, to make an Order, this must be his Justification of that which is unduely done: And, this is far from the mitigation of an Offence. To do an unjust Act is one thing, but, it is a great aggravation when it is drawn by pretence of an authority which never was.

On 27 *October*, the self same day Sir *John Burroughs* spake of notice taken by their Lordships, disclayming the Order for a Warrant; And then my Lord acknowledged it to be an Error; and, it is doubtful, whether he would have acknowledged it to be so, if it had not been proved so.

My Lords Commission speaks not of Money, and the Statute makes not to this Case, it being only, That when men are on their Allegiance, doing the King faithful service, they should not be attainted of High-Treason for doing their duty; And, the Interpretation his Lordship puts on it, is, that the duty of the Subject cannot be done to the King, without levying money in an unlawful way; if the levying of Money, or the Imposing of Charges be matter of duty, then he gives a Justification of the Charge: And, whereas he sayes, though he had not had command from His Majesty, nor Order from the Council of Peers, he had power enough to do that which he did; it is to be observed, that my Lord did not require men first to serve, but first to pay money; and if they paid not, then he Menaces them, that they should serve, as appears by Sir *William Pennymans* Warrant, and therefore the Warrant might be observed, which Sir *William Pennyman* justifies

so unwillingly, though in other things he be very forward; and for a man to be required to pay Money, and if he will not pay it, then to perform service, is hard; for now he comes not on the Kings service, but on the displeasure of them that require Money from him, and that's a bad discouragement to them that serve.

And whereas my Lord sayes, nothing is proved, or but by single proof, their Lordships may be pleased to remember, what is proved by Sir Henry Griffin, That my Lord said, That Money should be levied, and he would take a course for it, and the same Gentlemen deposes, that the Warrant or Order was under my Lord Straffords hand, which was the Warrant for them to pay Money.

It is likewise proved by Sir William Ingram, that he said the private men must maintain after 1 d. per day, and gave out his Command to the Constables, and he would have all men know, that those that refused it, were in a little better condition than High Treason, so that to the first part, there is more than a single Testimony. The latter part shall be proved by an other.

Mr. Henry Cholmley being Interrogated, What he heard my Lord of Strafford speak, concerning Treason, in case men pay not that Money, or to that effect?

He Answered, That he heard not any thing at all of Treason, Concerning the not payment, Answered, That at York, at the Mannor-House my Lord of Strafford speaking of the raising of the Trained-Bands, said, we are all by Law tyed to serve the King in our own persons, and if any refuse, they are in little better case, than Treason (he cannot tell whether he said High Treason) and they might be severely punished in the Star-Chamber.

Cholmley
Witness.

And, their Lordships may remember Mr. Cholmeleys former Testimony, that the Vice-President might, or shall send forth Warrants to levy Money; And therefore these Gentlemens Testimonies stand without impeachment of that point.

My Lord sayes, Moneys were not levied by force; yet it was proved, that for these two Regiments Money was levied by force; for, Four Soldiers came to the Town, and went with the Constables.

But, he sayes, it concerns not him, for no Warrant of his was shown. Their Lordships will not expect, that my Lord of Strafford should give particular Warrants to every Officer; his Direction is proved in general; his Commands are conveyed and distributed by particular Ministers; The Captains look for Commands from them that are above them; and they from the Lieutenant-General: And, Sir William Pennyman conceives, the Warrant made out by the Vice-President, was by a Warrant from my Lord of Strafford, or he had my Lord of Straffords Command. So that, take that which is under Hand and Seal; take what Sir William Pennyman, take what Mr. Cholmeley hath spoken, it cannot be otherwise, but it was done by my Lord of Straffords Command, and that is sure without legal Authority: and so Mr. Maynard conceived they had made a full proof of this Article.

For

Art. XXVII.

For that which concernes the Great Council, he desired my Lords Answer might be read; where he sayes expresly, It was done by order of the Lords of the Great Council; And, Mr. *Maynard* humbly prayed, that some of the Lords of the Great Council, might declare the Truth in that Case.

E. of Strafford.

But, my Lord of *Strafford* Answered, That he confessed it here at the Barr, that it is so; and, must humbly put their Lordships in mind, that in his Answer, he prayes, if any thing be mistaken, he may have time to amend it; and he doth amend it, he confesses it was put in too strongly.

Mr. Glyn.

Mr. *Glyn* added, That they put their Lordships in mind of it, that it may not be forgotten; After his Lordship was put in mind of it by the Lords of the Great Council, he retracts it; yet, when he comes to Answer, he affirms it; therefore they think it necessary, to put their Lordships in mind of it, least he affirm it again.

Mr. Whitlock.

Mr. *Whitlock* observed, That my Lord of *Strafford* had made Justification of his Act here; and truly, the opinions which he hath here published and declared in the face of the Parliament, are sufficient grounds of Condemnation of him.

He said, the other day, That in case of necessity, the King was loose and absolved, from all Rules of Government; and that then Money might be levied by Force; and, that their Lordships very well remembers what that necessity was, indeed no necessity at all. But, whatsoever the necessity is, they know no such Tenent as my Lord of *Strafford* publishes: But, it is expressly against the Fundamental Lawes of the Kingdom, and a meer Course for his bringing in an Arbitrary Power.

His Lordship said, That as he stood qualified, he might justifie as much as he hath done; Which words are little less than the offence wherewith he is charged, and prove the Charge. For him to say, That as he was then qualified, because he was Lieutenant General of the Army, he might send his Warrants to Tax the Kings Subjects without Parliament, is, to take on him the Power of a Parliament; for, under favour, no such Tax can be made without assent in Parliament: So that what my Lord of *Strafford* hath declared as a ground of his Defence, is a good ground of his Condemnation.

E. of Strafford.

My Lord of *Strafford* did here desire liberty to speak to the Testimony of Mr. *Cholimley*, which is new matter; and, he besought their Lordships to observe, That he did not say, as Sir *William Ingram*, That the Money should be paid, and he that paid not the Money, should be in little better condition, then High Treason; But, he that denies his Allegiance to the King, to go with Him in His Wars, in Defence of the Realm, is little better than guilty of Treason, or is Fineable in the *Star-Chamber*: But, because these are tender Points, and he little understands them, and they take hold of all that falls from him, he shall say no more, but that the Testimony of the one and the other, are two several things.

And, his Lordship proceeded to speak something touching Sir *William Ingrams* Testimony, which Mr. *Glyn* interposed, and said, Thats no new matter,

matter, but it only arises out of his Answer, and therefore he desired no more might be said to that.

Art. XXVII

He proceeded to other matters contained in the Reply, and offered to their Lordships, That it had been said, he did publicly justify at the Bar, that he had power to lay Taxes, and to force payment; but he said, under favour, no such thing; but that he having the Kings Commission and Power to call in such, as he should think fit to serve the King, for defence of the Realm, and this being pursuant to the Act of Parliament of 11 H.7. he said, he might justify (as he conceives) the calling of the Regiments to relieve by turns one another, as there should be occasion; but to say, he had power to Tax what he pleased, God forbid, he should say or think such a thing. He is not the wisest man in the world, yet not so ignorant, but to know that the one were a great breach, on the fundamental propriety and liberty of the Subject; but to call men to perform their Duty for preservation of the King and Kingdom, he conceives to be a quite different thing.

His Lordship proceeded to speak to some part of the Reply, concerning his sending forth of Warrants to levy by force.

Which being excepted against, as new matter my Lord of Strafford answer'd

That if he speaks new matter, it is sufficient punishment to him.

My Lord of Strafford proceeded, That he is charged to be the procurer of Sir William Pennymans sending a Warrant to levy by force, whereas, he said, the Warrant was issued by him and the Deputy-Lieutenants.

But that being denyed and apprehended to be new matter.

Mr. Whitlock desired to Reply to my Lord of Strafford's Answer, to what he had formerly opened, wherein he conceived he was not mistaken, but if he were, he submitted, but he opened it thus. That as my Lord of Strafford with the Power and Commission he had, he said, he might justify what he had done, and it proved that he sent Warrants to levy Money, and these Moneys were levied by force.

Mr. Whitlock.

Mr. Maynard added, That they are here for the King and Commonwealth, and desired, that Right might be spared them, and that there might not be continual Replies: That no colour of Answer is given; that because a man must serve in person, therefore Money must be required of him, else he must be brought by Head and Shoulders to serve in person. They offered a Warrant made upon peril of Life, under the Hand and Seal of Sir Edward Osborne.

Mr. Maynard.

Whence Mr. Maynard observed, That there is Imprisonment; Levying of Money; charging upon pain of Life; levying of Goods: nothing can be put upon the Subject, but it hath been offered in this Case.

Mr. Glyn Summ'd up their Proofs, saying, Since my Lord of Strafford will have another Reply, they have produced their Proofs, That he hath levied War against the Kings Subjects, and did before declare

Mr. Glyn.

an

Art. XXVII. an Intention to levy Money, which was afterwards done by his direction.

Sir *William Pennyman* proves, that Warrants were issued, and in such sort as mentions a coercion; They have in pursuance proved it to be levied by four Musquetiers, if he gave direction, another gave execution, and the parties Body must be carried away, if he pays not; which is a levying of War against the Kings Subjects: and *Gogan* 5 R. 2. was accused of Treason, for forcing a man to enter into Bond, which is not so much as to force those payments on the Kings Subjects.

They produced Sir *Edward Osborns* Warrant attested by Mr. *Cholmley* to be the Original Warrant that he had from Mr. Vice-President, to send for the levying of the Money.

To the &c.

WHereas His Majesty is informed, that the Regiment under Command of Col. *Cholmley* is set forth with little Money, which expresses great disaffection to His Majesties service, and wilful neglect of your own, and the whole Kingdoms safety; the Scotch Army having taken Newcastle, and being on their march towards these parts: These are therefore to Will and require you in His Majesties Name, and by His special Command, to raise, and cause to be raised by the Port Constable, or otherwise as you shall think best, the sum of 20 s. 8 d. at least for each common Soldiers belonging to such Towns or Parishes, and to send the same immediately to York, to be delivered to the Colonel, for Pay and Supply of the said Soldiers, and likewise to charge and command all and every person and persons, who find private Arms, or contribute thereunto, forthwith to send the like sum at least to York, to be disposed as aforesaid; And in case any of them refuse to contribute, you are required by like Command, to certify me the Names of such refusers, that a Messenger may be sent to bring them hither to serve in person, and be severely punished, according to the Quality of so high an offence, seeing the safety of His Majesties Person, and the safety of the Kingdom depends on this; Fail not in the speedy execution thereof, as you will answer to the contrary, on peril of your life. Dated the last of August 1640.

Mr. *Maynard*.

Mr. *Maynard* desired their Lordships to observe the former Deposition that my Lord of *Strafford* should say, The Vice-President shall, or may send forth Warrants, and it is originally my Lord of *Straffords* fault.

And so they concluded the 27th Article.

Mr. *Glyn*.

Mr. *Glyn* did offer to their Lordships, that there is the 28th Article remaining, wherein, whether shall proceed or no, they have not yet resolved. But they desired another day to be heard, they having something more to say.

And so the Court was Adjourned, and the next day was appointed, a Etight of the clock.

April.

A
SUMMARY
OF THE
EVIDENCE

Of my Lord of
STRAFFORD.

April 12.

THis Day being appointed, for the Summing up of the Evidence formerly given on both sides, in the Cause concerning my Lord of *Strafford*; The Right Honorable the Lord Steward spake in substance as followeth.

My Lord of Strafford, I am Commanded by my Lords to let you know, that they do expect your Lordship will go on in the Order set, to sum up your Lordships Evidence; and, those Gentlemen of the House of Commons will likewise sum up theirs, for the Close of Prooves in Matter of Fact; and, that your Lordship do it with all Clearness and Succinctness, avoiding any thing that may give Impediment, to the Clear and Fair Proceeding of the Cause, which, for matter of Fact, is come to a Period.

My Lord of *Strafford* humbly desired, That he might clearly understand what was expected in that case, and then he would perfectly obey my Lords in all things; adding, that he Conceives their Lordships intention is, that they shall go upon what hath been alleadged before their Lordships, without any new matter to be further alleadged on either side.

G g g g

Whereunto

Whereunto my Lord Steward replied, *That if there be any new matter, God forbid but they might alledge it.*

And, my Lord *Strafford* thereupon Answered, That he will offer no New Matter, unless it should arise from the other side; professing himself ready to be disposed of, in all Acts of Obedience to their Lordships. And then his Lordship proceeded to Recollect his Evidence in Substance, as followeth.

May it please your Lordships, it falls to my turn, by your Lordships leave and favour, to presume to put you in mind, and to represent to you, the Proofes, as they have been offered, which I shall do to the best of my Memory, with a great deal of Clearness. I shall desire to represent them neither better nor worse, then they are in themselves, and, I wish, the like Rule may be observed on the other side; For, in the proceeding of this Cause, I heard them alleadge, that, as they conceived, divers Articles were fully proved; Whence I conceive, there was nothing fully Proved.

My Lords, my Memory is weak, my health hath been impayred, and I have not had such quiet thoughts, as I desired to have had, in a business of so great and weighty importance to me: And therefore I shall most humbly beseech your Lordships, that by your Wisdom, your Justice and Goodness, I may be so much bound to you, as to have my Infirmities supplied by your better Abilities, better Judgments, and better Memories.

My Lords, The Charge I am to Answer, is a Charge of High-Treason; and, that which makes it the most grievous of all, it is an Impeachment of Treason from the Honourable House of Commons: Were not that in the Case, my Lords, it would not press so heavy and sore upon me, as now it doth, having the Authority and Power of their Names upon it; Otherwise, my Lords, the Innocency, and the Clearness of my own heart from so Foul a Crime, is such, that I must with Modesty say, if I had no other sin to answer for, it would be easily borne.

My Lords, as I went along *Article* by *Article*, These Gentlemen were pleased to say, They were no Treasons in themselves, but Conducing to the Proof of Treason: and, most of the *Articles* being gone over, they come to the Point at last. And hence, my Lords, I have all along watched, to see if that I could find that Poysoned Arrow, that should Invenome all the rest; that Deadly Cup of Wine, that should intoxicate a few alledged Inconveniences, and Misdemeanors, to run them up to High Treason.

My Lords, I confess it seems very strange to me, that there being a special difference between Misdemeanors, and between Felonies and Treasons; How is it possible that ever Misdemeanors should make Felonies, or a hundred Felonies make a Treason? Or, that Misdemeanors should be made Accessaries to Treason, where there is not a Principal in the Case? No Treason, I hope, shall be found in me, nor in any thing I hear to be charged, under favour, and not waved.

They

They say well, That if a man be taken threatning of a man to kill him, Conspiring his death, and with a Bloody Knife in his hand, these be great Arguments to convince a man of Murder. But then, under favour, the man must be killed; for, if the man be not killed, the murder is nothing. So, all these things that they would make conduce to Treason, unless something be Treasonable, under favour, they cannot be applyed to Treason.

My Lords, I have learnt that in this Case, which I did not know before, that there be Treasons of two kinds; there be Statute-Treasons, there be Treasons at Common-Law, or Treasons Constructive and Arbitrary.

My Lords, These Constructive Treasons have been strangers in this Common-wealth a great while, and, I trust, shall be still, by your Lordships Wisdom and Justice: But, as for Treasons in the Statute, I do, with all gladness and humility acknowledge your Lordships to be my Judges, and none but you, under favour, can be my Judges: His Majesty is above it, the King Condemns no Man: the great operation of His Scepter is Mercy; His Justice is dispensed by His Ministry; so He is no Judge in the Case (with Reverence be it spoken:) and likewise no Commoner can be Judge in the Case of Life and Death, under favour, in regard he is of another Body: So that, my Lords, I do acknowledge entirely, you are my Judges, and do, with all chearfulness in the World, submit my self unto you; thinking, that I have great cause to give God thanks, that I have you for my Judges, and, God be praised it is so; and, Celebrated be the Wisdom of our Ancestors that have so ordained it.

My Lords, I shall observe these Rules; First, I shall (as I hope) clear my self of Statute Treason, and then shall come to Constructive Treason, or Treason at the Common-Law.

The first point they Charge me withal of Treason, is upon the Fifteenth Article; Wherein neverthels, before I come to Answer the Particulars, I must humbly inform your Lordships, that, in that Article, two of the most material Charges are waved in the first part; that piece of the Charge that sounds so high, concerning a Miscarriage in me, in Levying Money upon the Towns of *Baltemore*, *Bandenbridge*, *Talow*, of that I hear nothing, and I shall mention it only thus farr, humbly to remember your Lordships, that, in that particular, I trust I have spoken nothing, that I should merit less belief of your Lordships: For my part, it is far from me, to put you upon any prejudice, by any means whatsoever; I look onely to the preserving of my self, if it may be without prejudice and hurt to any living Soul.

Then they likewise wave another piece of the Charge, and that is, that I should, by force of Armes, dispossess divers persons in the Territory of *Idengh*; and well they may, for, in truth, there is nothing at all of it that I am to Answer, it being wholly done by the Order of *Chancery*, and I having no more to do with it, then any man that hears it: the Matter that stayes with me in this Article, is, the alleadged Warrant to Mr. *Savill* Sergeant at Armes, and the Execution of it, for that I shall humbly beseech your Lordships, I may mind you, with all humility, that that Warrant is not shewed; and, I do think, that my Lords the Judges do, in the Tryals before them, observe, that Deeds are to prove themselves in ordinary Try-

als betwixt Men and Men; Now, how much more in a Tryal for life, and, which is more than that (though my Misfortune will have me to own it) in the Tryal of a Peer?

The Witnesses, my Lords, say, They have seen such a Warrant; But, no Witnesse sayes, he knowes it, and will Swear it to be my Hand and Seal; or, that I set my Hand or Seal to it; for, it may be Counterfeited, for any thing they know.

For, Mr. *Savill*, upon Oath, I thought (under Favour) he ought not to be admitted against me; for, he Swears directly to justifie himself: for if there be no such Warrant, he is answerable for the Fact, not I. But, my Lords, admit there were such a Warrant, I humbly conceive, I gave your Lordships a very clear and full Answer to it; I shewed you (and proved it, as I conceive) that the Selling of Soldiers hath been a Coercive means used in *Ireland* alwayes, to enforce obedience to the Kings Authority; I proved it to have been used, to fetch in the Kings Rents of all kinds, Contributions, Compositions, and Exchequer Rents; I proved it to have been used, to bring in Offenders and Rebels, and (as my Lord *Ranalagh* deposes) for any Unjustifiable Act. Sir *Arthur Terringham*, for a small Debt, which appears not to be the Kings Debt; My Lords, nothing at all is proved against it, but Negatively, the Witnesses say, they did not know such a thing, they had not heard the like; and, I think, none of your Lordships had, before this Cause; and yet that thing might be too.

And, my Lords, I beseech your Lordships, How should it be not Treason, to Asses Soldiers for the Kings Debts, and yet the Assesing of Soldiers, on the Contempt of the Kings Authority, should be Treason? for certainly the Kings Authority is of far more Dignity, and more respect is to be had to it, then the getting of a few poor Debts; and, why it should be Treason in one Case, and not in another, methinks it is very strange.

My Lords, in the next place I conceive, that not in any Construcion this can be said to be a Levying of War against the King and His People, being but the Employment of two or three Soldiers, to procure obedience to His Majesties Government: because (as I conceive likewise) I had Commission to make War as I saw Cause, for punishing the Rebels, and securing the Publick Peace; and therefore, How can I be charged with that I have power to do?

The worst that can be made of it, is, an absurd execution of a Power; but, to make it Treason, when I had Commission and Liberty so to do, methinks that is very hard: And, it was no absurd execution of a Power, under favour neither, when I had the Precedent of all the former Deputies and Lieutenants in the Case.

My Lords, it was never Complained of all the while I was there, for ought appears to your Lordships; so, that it seems there was no great Innovation, nor Inconvenience, for, if there were, I should have heard of it.

But, the Statute 11 E. 1. ca. 7. sets a penalty upon any Subject, that shall Asses without the Deputies Authority. Now I do most humbly beseech your Lordships, that you would be pleased to remember that, and let me know how it should be but Penal in a Common person to do it, and yet Treason in a Deputy?

My Lords, I shall likewise humbly mind your Lordships for the Statute, or rather two Statutes, as I take it, whereby I conceive this Statute that made a Treason in *Ireland* was repealed; But, howsoever, the practice in all time hath gone quite contrary to that Statute, and the best Interpretation of Law is the Practice of Law; and therefore the Practice having been otherwise, it is an Argument very strong and prevalent, that the Deputy, as Chief Governor, was never intended to be Concluded within that Act, nor never to be brought in by General Words onely.

And, that this should be a Levying of War against the King, within the Statute of 25 E. 3. in *England*, surely I conceive it cannot be; for, the Burning of Towns, the Taking of Forts, Killing and Slaying, that I conceive to be a Levying of War; but, this is a strange Levying of War, with two or three Soldiers to rest in Peace and Quietness, eating on Contemners onely (and not Killing and Slaying) and all to procure Obedience to the King, not in Disobedience to His Command. If to lie upon them and eate, be High-Treason, in this Case, What shall become of a great Company of good Fellowes, that at this time eate at the Charge of the Country?

No, my Lords; This, in the Case of a private Man, had been but a Forcible Entry, or a Ryot at the most, if a man had done the same thing Mr. *Savil* did of his own Authority, without the Deputy, it had been but a Force and Ryot; and, How shall this be in my Case High Treason?

The next Charge, in that Case, is, concerning a Warrant to one *Piggot*, another Sergeant at Armes, and the great and crying Miscarriages and Misemployments of such a War; if there had been any, it was when I (as your Lordships may please to remember) was out of *Ireland*, and that was the Case of *Bern*, a very Foule Misdemeanor, as it proved. But, my Lords, I being out of the Kingdom, and no such Warrant shown, I conceive I am absolutely dismissed as unto that, and have nothing to Answer for it: there was nothing done while I was in the Kingdom: there is no Warrant of mine shown: therefore, I conceive, I stand clear of that likewise.

But admit there were such a Warrant, the Answer goes to that as to the test; and certainly, I hope, will fully acquit me of this Fifteenth Article, as Treason; And so I must, in humility, submit to your Lordships wiser and better Judgments.

The next Statute Treason, is an Intendment, or Design, or what you will have it, for bringing over the *Irish* Army into this Kingdom, to reduce it, or to do I know not what, nor I think no body else, for there is no such thing.

But, my Lords, for prooffe in this Case, you have two offered there, and no more, under favour, at all: the first proof is, the Fears and Doubts of my Lord *Ranalaugh*, that tells you, he Fears such a thing, and Doubts such a thing. My Lords, if Fears and Doubts may be sufficient to Condemn me for Treason, By my Faith, I fear, and doubt very much, these Fears and Doubts might Accuse me, and Condemn me of Treason more then once a Year; But, my Lords, his Fears and Doubts, he may keep to himself, I hope they shall not be brought any way to the prejudice of me; I am, I thank God, both confident and knowing, there is no such thing.

The next is the Testimony of Mr. Treasurer *Vane*; and, the Words Mr. Treasurer doth Witness against me in that particular, are, as I conceive, these

these; that I should say to His Majesty, in an Argument concerning an Offensive or Defensive War with *Scotland*; Your Majesty hath tryed all wayes, and are refused, and, in this extream necessity, for the safety of the Kingdom, and Your People, You may imploy the *Irish* Army to reduce this Kingdom.

My Lords, To this I say, that (under favour) Mr. Treasurer was in this (methoughts) a little Dubious; he was something doubtful; for, at the first, he told your Lordships, he would deal plainly and clearly with you; that he knew before whom he spoke: and then, my Lords, it was but to the best of his Remembrance, that these, and these words were spoken. At the last, my Lords, being put to it more, he was pleased to say, that these were positively the words, or something to that effect: So, my Lords, here is but a dubious and uncertain Witness, under favour, and these Professions of his speaking clearly and plainly, and of his Consideration before whom he was (which are something unusual Clauses to Men, that come to Swear upon Oath) make me conceive him something Dubious in this point.

Secondly, My Lords, he is a Single Witness, and not onely so, but, under favour, disavowed by all the rest that were present at the Council; my Lord of *Northumberland* remembred no such thing; my Lord Marquis of *Hamilton* remembred no such thing; my Lord Treasurer remembred no such thing; my Lord *Cottingham* is very well assured he said no such thing, for if he had he should have taken offence at it himself, which he never did.

My Lords, in the *Third* place, He is pleased to mention, That it was in a Debate, Whether an Offensive or Defensive War? and, that then I should say, The King had an Army in *Ireland*, &c. My Lords, It falls out in time, to be as I conceive, to be about the 5th of *May* last, not many dayes sooner or later, the Army of *Ireland* was not raised till *June* following. So it seems, I should tell the King a great untruth; that he had an Army in *Ireland*, which he might imploy for His Service, before that Army was raised; for, it is a notorious thing, and any of that Country knows, that the Army was not raised till the Fifteenth of *June*, as I remember.

Lastly, In farther taking away of this Testimony, I have proved it, by a great many Witnesses, beyond all exception, that there was never any such intendment of the bringing this Army into *England*; nay, that the Design was quite otherwise; and this hath been apparently cleared before your Lordships, By the Testimony of my Lord of *Northumberland*, Marquis of *Hamilton*, Sir *Thomas Lucas*, and Mr. *Slingsby*; And might have been further justify'd, by the Testimony of my Lord of *Ormond* President of *Munster*, and Sir *John Burlace*, Master of the Ordnance in *Ireland*, if they had been here to have been produced: So that all these laid together, the strong and clear proof on my part, the producing of a single Witness which, by the Proviso of 1 *Edm.* 6. cannot rise in Judgment against any man for High-Treason. I trust, all these laid together, I shall appear to your Lordships clear and free from these two points, whereupon they enforce me to be within the compass of Treason by the Statute alleadged.

The Third Treason that is laid to my Charge, is upon the 27th Article, where Four Musquettiers being sent to *Egton*, by Sergeant Major *Tawerth*, to call for their Eight pence a day, is prest upon me, as a Levying of War upon the King and His People, and to be High-Treason upon the Statute of 25 E. 3.

These be wonderful Wars, if we have no greater Wars then such, as four men are able to raise, by the Grace of God we shall not sleep very unquietly. But, How do they prove this to be done by me? they produce to your Lordships the VVarrant of Sir *William Pennyman*; but, had no VVarrant at all of mine to shew.

Sir *William Pennyman* doth not alledge any VVarrant of mine to that purpose; he speaks of a General VVarrant, wherein I and the Deputy-Lieutenants joyned, for the paying of the Fortnights pay, as they call it, and that is very true; but, that I should give VVarrant to Levy by Soldiers, no such thing is proved; no such thing is shewed; no such thing is alledged by Sir *William Pennyman*, that best knew it; and, should do it in his own Justification, if there were such a thing: but, on the other side, I must humbly beseech your Lordships, to mind you what a clear and full prooffe I made thereof to you, till you were weary, though, I think, I could have continued it a year longer if need had been, that there was nothing done by me in the Levying of the first Months pay, or the second Fortnights pay, but with full consent of the Country, nothing being of Constraint, nothing being of force put upon them.

The Second point was a VVarrant shewed to your Lordships, or at least pretended from Sir *Edward Osborne* the Vice-President, wherein he charges them to obey and persue the substance and direction of his VVarrant, on pain of Death, and this must likewise be laid to me: My Lords, I confess I have faults enough, more then a good many, though I trust neither so crying nor grievous, as some would pretend them to be; but, Faults I have, more then too many, I need not take nor add to my self other Mens; but, whether this be a Fault or no, I cannot undertake to Judge. But certainly, I am in no Fault: for, I was at ——— when this VVarrant issued from Mr. Vice-President; and, I dare say, he is a Gentleman so worthy and noble, and so great a Lover of Truth, that let him be examined upon Oath, if he shall not absolutely clear me from Privy or Direction of it, I so much rely on him, that I will be thought Guilty before your Lordships for this Charge: Now, my Lords, having gone over all that first part, which I thought fit to apply my self to, and that is Statute-Treason, There is no Statute-Treasons in the whole Charge, nor colour or pretence thereof, save onely that of *Newcastle* which was waved.

In these, my Lords, I hope I am clear before your Lordships; and, sure I am, they give me little disquiet, for, in good faith, I am clear in my own poor Judgment.

Then comes in the second Condition of Treason in the charge, and that is Constructive-Treason; and, it is laid down in the first Article of the General Charge.

For, my Lords, I must tell you, the First Articles exhibited, are Grounds and Foundations whereupon the rest are gathered, and to which they resort and apply themselves severally.

I do conceive my self, in a manner, by themselves, clear of seven of these, for, they have, in a manner, relinquished Five of them; So that the First Article is the main Article whereupon I must be touched, and that is laid in the Charge thus. That I have Trayterously endeavoured, to subvert the Fundamental

Fundamental Lawes and Government of the Realmes of *England* and *Ireland*; and have, by Trayterous Words, Councils, and Actions, declared the same; and have advised His Majesty to Compel His Subjects, to submit thereunto by force.

My Lords, I must confess I have many times with my self considered with wonder, at the Wisdom of our Ancestors, that set the Pillars of this Monarchy with that singular Judgment and Providence, that I have ever observed, that so oft as either the Prerogative of the Crown, or Liberty of the Subject, *Ecclesiastical* or *Temporal* powers exceed those modest bounds set and appointed for them, by the sobriety and moderation of former times, the exercise of it over-turn'd to the Prejudice and to the Detriment of the Publick Weale; all the Strings of this Government and Monarchy have been so perfectly tuned through the skill and attention of our Fore-Fathers, that if you wind any of them any thing higher, or let them lower, you shall infallible interrupt the sweet accord, that ought to be entertained of King and People.

With this Opinion I had the honour to sit many years in the Commons House; and, this Opinion I have carry'd along with me exactly and intirely for Fourteen years in the Kings Service; ever Resolving in my heart *Stare super vias antiquas*, to prove, with equal care, the Prerogative of the Crown, and the Liberty of the Subject, to Introduce the Laws of *England* into *Ireland*, ever setting before my self a Joynt and Individual well-being of King and People (for either they must be both or neither) which made my Misfortune the greater to be now in my Gray Haires charged, as an under-worker against that Government, a Subverter of that Law I most affected, and a Contriver against that Religion, to the truth whereof I would Witness by the Sealing of it with my Blood.

My Lords, As to the latter part, concerning my Religion, they have quitted me; and I have nothing to answer to that, because it is waved; and, I trust, my Lords, I shall clear my self in the first part, concerning my being a Subverter of the Fundamental Laws, that I shall stand clear to your Lordships Judgments in that Case.

My Lords, This Subversion must be by words, by Councils, and by Actions in *Ireland* and in *England*,

My Lords, I shall first give you an Accompt of the words, wherewithall I am Charged forth of *Ireland*; and, the first words are in the third Article, where I am Charged to have said, *That Ireland is a Conquered Nation, and that the King may do with them as he pleaseth*: And, to the City of *Dublin*, *That their Charters are nothing worth, and bind the King no farther than he pleaseth*. These are the words Charged.

My Lords, methinks it is very strange, under favour, that this can be made an Inducement to prove this Charge, because I said, *That Ireland is a Conquer'd Nation*, therefore I endeavour to subvert the Fundamental Laws when I speak the Truth, for certainly it is very true, it was so.

My Lords, under favour, I remember very well, there was as much said here at this Bar, since we began; and yet I dare well Swear, and acquit

acquit him that spake it, from intending to Subvert the Lawes.

For, my Lords, you were told, and told truely, That *Ireland* was a Conquered Nation, and that it was Subordinate to *England* (and, God forbid that it should be otherwise) and that they have received Lawes from the Conqueror.

My Lords, the words testified by my Lord *Gormonstone* and *Kilmallock* to be spoken, are not the words wherewith I am charged, and so, under favour, I conceive, cannot be brought to my prejudice, as to this Tryal, and they are words that are denied by me.

For my words concerning their Charters, your Lordships remember very well, I doubt not, wherefore I said they were void, For their misuse of them, and that I told them so, not with the intent to overthrow their Patents, or Charters, but to make them more conformable to those things, that the State thought fit, for encrease of Religion and Trade, and encouraging and bringing *English* into that Town; And, that it was meant so, and no otherwise; Whatsoever was said, it appears by this, their Charters were never touched nor infringed, nor medled withal by me, during the time I was in that Kingdom; so that words so spoken, and to such a purpose, that they should go to prove such a Conclusion, I conceive there is great difference betwixt those Premises, and that Conclusion.

The next Charge for words in *Ireland*, is in the Fourth Article, where I am Charged to have said, That I would neither have Law, nor Lawyers Dispute or Question my Orders: and, that I would make the Earl of *Cork*, and all *Ireland* know, that as long as I had the Government there, any Act of State should be as binding to the Subjects of that Kingdom, as an Act of Parliament.

My Lords, I humbly beseech your Lordships to give me leave to say for my self, that these words of the Charge are onely Sworn by my Lord of *Corke*, and no man else: and, his Lordship appeared a little mistaken the other day in one point, on the Reading of an Order of the Council-Board, for so it appears, as I conceive; so that for one single Witness, and he the Party Aggrieved by these words, to be the Man that must convince me, I conceive your Lordships will not think that to stand with the ordinary Rules of proceeding.

For the rest, to say Acts of State in *Ireland* should be Binding, so long as they are not contrary to Law, I confess I then conceived it had been no Offence, for I thought them to be as binding, being not contrary to Law; but, the Elder we grow, the wiser we may grow, if God give us the Grace, and Attentions; and, so I trust I shall, by these Gentlemen, that have taught me to forbear those kind of Speeches hereafter.

My Lords, These are all the Words charged against me for *Ireland*, saving onely some things that I shall come to anon, that is Charged upon me in one of the latter Articles, concerning *Scotland*; I say, my Lords, these are all the Words that have slipped from me in Seven years time, having been well watched, and observed, as your Lordships may perswade your selves I have been; But, in Seven years time, I say, these are all the words brought to my Charge: and, in truth, I conceive, a wiser Man than my self might be forgiven for one Error, or slip of his Tongue of that

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Nature in a years time, seeing it is in no greater measure, God be praised, than these are.

My Lords, these being the words that passed from me in *Ireland*, there are other words that are charged upon me, to have been spoken in *England*; but if your Lordships will give me leave (though perhaps in no very good method) I shall not fail to touch first or last, the words in every *Article*.

The next *Article* then that I am charged withal for words, is the second *Article*, and these are the words that I should say, concerning the *Finger and the Loins*.

My Lords, I may alledge much new matter, but I will observe your Lordships Order punctually, by the Grace of God, for what I may say in that case, if it might be admitted, I keep it to my self; but the truth is, they that do prove the words to be thus, *That I would make the little finger of the Law, heavier than the Kings Loins*; they do not tell you the occasion of the Speech, or what went before, or what after; for my Lords, if they had told the occasion (which methinks they should, as well have remembred as the words) it would plainly and clearly have appeared to your Lordships, that Sir *William Pennymans* Testimony was most true, for the occasion was such, that to have said those words, had been to have spoken against that to which I intended the discourse; but speaking them as I said, it makes very strong for that purpose, to which I directed them; which was to appease the Countrey, and quiet the Discontents; for having been double charged with the Knight-money, and therefore it was not properly threatening them, further to have provoked them.

My Lords, you have Sir *Will. Pennymans* testimony, that it was so, and my profession; who (under favour) will not speak an untruth to save my life; I protest before God, that I say, I verily believe, or else I will never speak it indeed, and there it is they have proved it to have been said one way, we another way, we give the occasion of our Speech, and disavow theirs, and so we must leave it; and howsoever, these words so spoken, can never be drawn (as I humbly conceive) as premises to prove their conclusions, that therefore I am guilty of High Treason, they have made me guilty of a foolish Word, and that I confess, and if they please, I will confess it all the day long; for I have been foolish all the days of my life, and I hope hereafter I shall look unto my ways, that I offend not with my Tongue, for if I cannot rule it abroad, I will rule it within doors, else I will never stirr abroad, but bound it so to my own business and affairs, that I trust I shall give no offence.

The next *Article* that chargeth me with words, is the 22 *Article*, and these be words spoke in *England*; The first part of them, which concerns the bringing in of the Irish Army, I have spoken to already; but in the conclusion there are other words, and shortly, the said Earl of *Strafford* returned to *England*, and to sundry persons declared his opinion to be, That His Majesty should first try the Parliament here, and if that did not supply him according to his occasions, he might then use his Prerogative as he pleased, to levy what he needed, and that he should be acquitted both of God and Man, if he took some other courses to supply himself, though it were against the will of his Subjects.

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My Lords, as unto this, I conceive the Charge is not proved by any Witness, that hath been here produced against me; and in truth my Lords, I must needs say this, under favour (if it be an error in my Judgement, I must humbly crave your Lordships pardon) through the whole Cause I have not seen a weaker proof, and if I had had time to have gotten my Witnesses out of *Ireland*, I hope that should be proved, and so clearly, as nothing could be proved more; but I must stand or fall to what I have proved, and so I do my Lords; the proof they offer for this (as I conceive) is the Testimony of my Lord Primate, and his Testimony is, That in some discourse betwixt us two, touching Levying upon the Subject in case of imminent necessity, he found me of opinion, that the King might use his Prerogative as he pleased. My Lords, this is (under favour) a single Testimony, it is of a discourse between him and me, and there is not any other that witnesses any thing concerning it, so that (under favour My Lords) I conceive this will not be sufficient to bring me any ways in danger of Treason, being but a single Testimony; and my Lords, it is to be thought, and to be believed (and it were a great offence for any man to think otherwise) that in this case any thing can please the King (he is so Gracious and Good) but what shall be Just and Lawful, and then there is no doubt, but so far as with Justice and Lawfulness, he may use his Prerogative in case of imminent danger, when ordinary means will not be admitted.

At most, he saith it was but an opinion, and opinions may make an Heretick, but they shall not, I trust, make a Traitor.

The next is the Testimony of my Lord *Conway*, and the words that his Lordship testifies are these; That in case the King would not be otherwise supplied by Subsidies, he might seek means to help himself, though it were against the will of his Subjects. Truly, my Lords, if I should acknowledge these words, I do not see how they can be any way Capital in my case; but this again is but a single Testimony, and there is no other that says it but himself, and if there be a good sense given to them, certainly the words may very well bear it, for I think it is a very natural motion for any man to preserve himself, though it be to the disliking of another; and why a King should not do it as well as a Subject, it is such a prerogative of Kings, as I never yet heard of; for I thought, though they had been Gods on earth, yet they are men, and have affections as men, and should preserve themselves, being not only accountable for themselves, to God Almighty, but also for their Subjects, whose Good and Benefit is wrapt up and involved in theirs, and therefore the King ought more to regard his own preservation, than the Common-wealth.

The Third is, That Mr. Treasurer says, that to his best remembrance I did say, That if the Parliament should not succeed, I would be ready to assist His Majesty any other way; God forbid this should be any offence for to say so, either in him or me; for I will swear, if it please you, that he said so as well as I, therefore God forbid, it should endanger either of us both; for my Lords, to say I will serve the King any other way, it is no other than what became a good and faithful servant to do, always provided, the way be good and lawful, which in this case, is always to be admitted among persons of Honor and persons of Trust; and therefore admitting it not any other way, it was just, and lawful, and commendable

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in Mr. Treasurer and me; for I vow to your Lordships, we both said it, and he as fully as I.

But my Lords, all these come very far short, to prove the words of the Charge, and this (under favour) is all the proof as I have taken, that I should say these words before the Parliament.

The next words I am charged withal, are in the 23^d Article, and those, my Lords are, that having tryed the affections of his people, His Majesty was loose and absolved from all Rules of Government, and was to do every thing that Power would admit, and that His Majesty had tryed all wayes, and was refused, and should be acquitted both of God and man: For the latter part that concerns the reducing of this Kingdom by the Irish Army, I have answered already, and therefore shall not need to repeat it

My Lords, mine Answer (under favour) to those words, with your Lordships Noble permission, must be thus, That they are no way proved in the most material part of them, by any Testimony that hath been offered, I shall, as near as I can, repeat the proofs that were offered on this point (for these Articles were brought in four or five together,) but I shall apply the proofs severally and distinctly.

The Testimony first given, was the Testimony of the Lord of *Bristol*, wherein his Lordship says, That in a discourse, there was difference betwixt his Lordship and me, in some Tenents of ours. To which I answered the other day; that in discourse we speak not always the things we think, but many times to gain from other mens arguments, to strengthen me in my opinion, I will seem to be of the contrary; This is ordinary and familiar in all conversation, and very honest and just, so that albeit we seem to differ as we held it severally, yet if the pulse of our hearts had been touched close, both his and mine, perhaps we should have found it one and the same; Besides, his Lordship said, I disliked not the discourse, we speaking of another Parliament; only I said, it was not convenient at that time, and that the present dangers would not admit a remedy of so long consideration; and that the King must provide for the Common-wealth, *Et salus populi suprema lex.*

And truly my Lords, I think that it is very hard, any man should upon such a discourse, have his words turned upon him, and made use of to condemn him for High Treason.

My Lords, I know you are so just that you would judge me, as you would be judged yourselves, and whether any man that hears me, would be content, to have every word that falls in discourse betwixt man and man, to be so severely interpreted, I leave to every mans Breast, what he finds in the closet of his own Heart: and desire to be judged according to that.

My Lord went further, and says, I should say that the King was not to be mastered by the frowardness, or disaffection of some particular men, and conceives it be meant of the Parliament.

My Lords, I say (under favour) these words are not within the Charge, and therefore I am not to be accountable for them; besides, it is a single Testimony, and by the *proviso* of that Statute, cannot be made use of, to the end and purpose for which they bring them.

My Lords, the next Testimony offered for proving this Charge, is the Testimony of my Lord of *Newburgh*, and he says, That at the Council-Board, or in the Gallery I did say, that seeing the Parliament had not supplied the King, His Majesty might take other courses for the defence of the Kingdom. Truly my Lords (under favour) who doubts but he might, for my part, I see not where the offence is; for another man to have said thus, for if another man will not help me, may not I therefore help my self? (under favour) I conceive there is no great weight nor crime in these words, but in these likewise he stands a single Testimony, there is no man that joyns with him in it; and there is this in the whole Cause, concerning the words, that I think there is not any one thing wherein two concur.

The next Testimony is that of the Earl of *Holland*, and he says, That at the Council-Board I said, The Parliament having denied the King, he had advantage to supply himself other ways; Truly, my Lords, I say still other wayes, being lawful wayes, and just wayes, and such wayes as the goodness of the King can only walk in, and in no other can he walk. And therefore I conceive, they be far from bringing it to so high a guilt as Treason; and this likewise his Lordship expresses as the rest do, singly on his own word, as he conceives them, and not on the particular word of any other person, which is I say, the case of every one that speaks in the business; and therefore there being so great a difference in the Report and Conceiving of things, it is very hard my words should be taken to my destruction, when no Man agrees what they were.

My Lord of *Northumberland* is the next, and he says, I should say at a Committee for the Scottish affairs, That in case of necessity, and for defence and safety of the Kingdom, every thing must be done for the preservation of the King and his People. And this is the Testimony of my Lord in that point; if I take any thing short, it is against my Will, I give you my Notes as far as I have them, and further I cannot remember them.

But my Lords, I say this brings it to that, which is indeed, the great part of my Defence in this case: There is another agreed in this too, and it is Mr Treasurer, who says, that in Argument for Offensive or Defensive War, I should say, That having tried all ways, and being refused, the King might in extream necessity, provide for the safety of himself and his People; I say this brings it to that, which is principally for my Defence that must qualify, if not absolutely free me from any blame; and that is that which did proceed and follow after.

My Lords (under favour) I have heard some discourse of great weight, and of great Authority; and that is certain, the Arguments that were used in the case of Ship-Money, by those that Argued against the King in that Case, say as much, and will undertake, if any man read those Arguments, he shall find as much said there, as I said at Council-Board; for there you shall

shall hear, that there be certain Times and Seasons, when Propriety ceases, as in the case of Burning, where a Man pulls down the next House, to preserve the whole street from being set on fire. In the case of building Forts on any mans Land, where it is for the publique defence of the Kingdom, in both these Cases, Propriety doth cease: nay, he says that in War, *Inter Arma silent Leges*. Now my Lords, these are as highly said, as any thing you have heard by me, and yet certainly is no subverting of the Fundamental Laws for all that; and therefore, if a man must be judged, he must not be judged by pieces, but by all together.

My Lords, Whatsoever I said at Council-Board, was led in by this Case, what a King should do, in case of a Foreign Invasion of an Enemy, when the ordinary wayes and means of levying Money would not come in seasonably to prevent mischief, for what a King may do, in case of absolute necessity; certainly in these cases, the ordinary Rules do not take place; as this was the Case that let in the Discourse, so I most humbly beseech your Lordships (for it is fully proved) to remember what was the conclusion of that Discourse; which was, That after the present occasion provided for, the King was obliged in Honor and Justice to vindicate and free the Liberty of the Subject from all prejudice, and harm it might sustain in that extraordinary occasion, and that this was to be done by a Parliament, and no other way but a Parliament: and the King and his People could never be happy, till the Prerogative of the Crown, and the Liberty of the Subject were so bounded and known, that they might goe hand in hand together, mutually to the assistance of one another.

My Lords, give me that which precedes, and that which follows, (both being proved to be the Case in these words in the Charge) I think, considering these two, I should be far from having committed any great crime or offence, in saying these words.

But I say as I said before, I shall be more wary for the time hereafter, if it please God to give me that Grace and Life, which I submit to him, and shall readily and willingly resign to his good Will and Pleasure; I conceive therefore, that as these words are accompanied, they be not words that do amount to Treason, and are so qualified, and so weakly proved, that I trust they shall not stick with your Lordships.

The next words that I am charged withal in *England*, be on the 25th Article, and that is, that I should say, that the Aldermen that would not give in the names of the able men of the City, deserved to be put to Fine and Ransome, and that no good would be done with them, till an example were made of them, and they were laid by the heels, and some of the Aldermen hanged up.

In the first part of the Article, there is something, concerning my advice for raising the Money, but it is not proved that I did any thing therein, but as others did, and as in former years had been done, before my coming into the Kingdom: For the words, that *they deserved Fine and Ransome*, I confess them in my Answer, just in the same manner as my Lord of *Berkshire* was pleased to testify them the other day, that is, That if they should not do the thing desired, they might in my opinion, be liable to Fine and Ransome.

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And my Lords, admit I were mistaken in my opinion, shall it be a Treason to be mistaken? I say in my opinion, they might be lyable to Fine and Ransome; but what is this to Treason? Under favour, nothing at all as I conceive. For the other part, that it would never be well, till some of the Aldermen be hanged; it proves to be testified by Mr. Alderman *Garraway*, and he owns it only for himself; for it was not that some of the Aldermen should be hanged, but he said at the Bar, till he himself were hanged.

My Lords, This is a single Testimony, and these words, as he says, were by me spoken to the King at the Council-Board, That it would never be well till some of them were hanged, meaning himself; truly my Lords, I thank God I never spake such unmannerly Language all the dayes of my life, I have had more regard to my words than to say such things to my Master; and your Lordships must needs be many of you by, and I am very confident, there is not one among you, that can remember any such words were spoke; for in good faith, I did not speak them; And my Lords, before this misfortune did befall me, I should with modesty have thought my self a person on equal terms, to have been believed as well as Mr. *Garraway*, and I speak it with as great confidence as he, that I never spake the words.

My Lords, The next is the 26th Article, and that is, that I should say the City of *London* dealt undutifully with the King, and they were more ready to help the Rebels, than to help His Majesty; and if any hurt came to them, they might thank themselves.

My Lords, I am in the first part of this Article, charged to have counselled and approved two dangerous and wicked Projects, the one concerning the stay of the *Bullion* in the *Tower*, the other concernin *Copper-coyn*, and no proof hath been offered, that I either compelled, or approved either of those two Projects. And my Lords, it is proved to your Lordships, that when the Merchants came, I told them, I knew nothing of the businets as to the *Bullion*, neither indeed, did I ever know there was any *Bullion*, nor anything of that nature in the *Tower*. But for the words, I conceive it had been no Treason for me to think at that time, that the *Londoners* had dealt unthankfully with His Majesty, I thought I might have said it freely, without danger of such a thought, as might conduce to the convicting me of Treason.

But whatsoever I then thought, or on what grounds soever, it may be remembred, that then I alledged, and now I speak it, when news was brought to *York*, that the City had sent the King Two hundred thousand pounds, I took notice, that notwithstanding all I had thought formerly, they had now made such recompence, and so cleared their Faith and Duty to the King, that I should be their servant, and lay my hand under their feet, as those that heard me are able to speak; for though at first I said they had dealt unthankfully with the King, yet afterwards I was ready and willing upon all occasions, to testify the contrary of them, and to profess that I was ready to serve them upon all occasions, just, and honest, and honourable.

As for my saying, that they were readier to help the Rebels than the King. In truth I am a man that cannot justify a thing I do not approve,

I must needs say, it was an unadvised Speech; and, I wish I had not spoke it: it seems I did speak it; for I have reason to believe honest men when they Swear, though, in truth, I remember it not: but, I have no reason or cause to think, they would take an Oath otherwise then truth. I have no exception to the Men, and therefore, upon their words, I must Credit them, before my own memory; but, it was an Unadvised Speech, and he is a wise man, and much wiser then my self, that some time offends not with his Tongue. And, in truth, my Lords, though there be no Treason in it, they are the most unwarranted words that appeare in the whole Proofoe made against me.

In the 26th there are some words, that I should speak to my Lord *Cottington*, concerning a Foolish Pamphlet, or *Gazette*, which I then had in my hand; and, it is such a Toy in it self, and all the Circumstances of it, that I hold it not worth the mentioning, but only that I would not forget any thing in the Proofoes, as near as I could, and the Proofoe is uncertain, for onely one Man sayes it, and, the very words he cannot expresse: Now, he that shall Swear, when he cannot expresse the Words, his Testimony is but of small value; and, he is but a Single Proofoe at best to disprove what is depofed by Sir *William Parkhurst*, who sayes, he was by, yet heard not the Words; And, *Cogam* sayes, he remembers not the words: and so, upon the matter, there are two against one; and, the whole being so uncertain, I conceive it is of very little moment in your Lordships Judgments.

My Lords, These are as near as I can gather, all that are charged as unto words, spoken either in *England* or *Ireland* Councils, other then these I am not charged withall, and so there remains nothing but my Actions; and, if I can free them as well, as I have freed the Words, I conceive then, under favour, I have fully Answered all, that hath been objected against me.

My Lords, The first of these is the *Fifth Article* in the Case of Sentence of the Council of War, against my Lord *Mountnorris*, and the Sentence of the Council of War against *Denwit*.

For that of my Lord *Mountnorris*, I have shewed plainly and clearly to your Lordships, that I was no Judge in the Cause, but a Party, and therefore not Responsible for any Judgment given against his Lordship. I gave no Vote, and so consequently am not to Answer for any Guilt, if there were any; which, under favour, I conceive, since all Martial Law is Adjudged to be against the Law, I may be of another Opinion; but, formerly conceiving that that might have stood with the Law, I might say something more for the Justification of it, then now I do, but howe I was no Party.

They say, he was a Peer, and it is very true; but, as he was a Peer, so he was a Captain of the Army; and, in this Case, we consider Men as Members of the Army, not as Peers: And, if a Peer will not submit himself to an Officer of the Army, he must submit himself to the Order of the Army.

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Besides, I say it was intended only as a Discipline to him, the better to remember him to govern his Tongue afterwards towards other Men; and, that there was no more Prejudice fell upon him by it, but two or three days Imprisonment, so there was no great Animosity in the business: besides, it appeared to your Lordships, that two or three dayes after we writ to the King, and obtained his Pardon; so that I conceive, the Inconvenience was not very great to him, nor the Proceedings such, as should make it unpardonable, or Criminal in them that gave Sentence upon him, whereof I was none.

For that other, concerning *Demwitt*, your Lordships may remember, he was found Guilty of Stealing a Quarter of Beef, and for Running from his Collours, and was formerly Burnt in the Hand; for that he should be Proceeded against another way: But, falling out at that time, when Five hundred Men were going over to *Carlisle*, and they being unwilling to be put to Sea, we were inforced to those proceedings for the preventing of further Mischief. And, there is another thing; that the Martial-Law hath been alway in Force, and executed in all times in *Ireland*, and never so sparingly as in my time; for, this is the only Man that suffered all the time I had the Honour of the Government: And, I dare Appeal to them that know the Country, Whether, in former times, many Men have not been committed, and Executed, by Martial-Law, by the Deputies Warrant, that were not Thieves and Rebels, but such as went up and down the Country? if they could not give Account of themselves, the Provost-Martial, by direction of the Deputies, using, in such Case, to Hang them up. I dare say there are Hundreds of Examples in this kind; so that as to that, I do not Justifie it; But, I say, it is a Pardonable Fault; and, that others are of Course Pardoned for it; And, I trust, that what falls of Course, shall not be laid upon me as High-Treason, or conducing to it.

The next is the *Sixth Article*; and that is in the Case of *Richard Rollston*; and, therein, I am said to have Subverted the Fundamental Laws, by executing a Power, and a Jurisdiction, which was not Warranted by Law, upon a Paper Petition, putting out of Possession of his Freehold and Inheritance my Lord *Mountnorris*.

My Lords, That Sentence will appear to your Lordships to be no more, then the relieving a Poor Man in case of Equity; and, it is proved to you to be a Power, that hath been formerly practised by the Deputies; and, I humbly conceive the Decree is just; So that, my Lords, I must Confess, it is something strange to me, That, having the Kings Letter to Warrant me in the Course of Proceedings, and having the Power of former Deputies in like Case, and doing no more therein then the Lord Chancellor, by the very self-same Law, should do in other places: And, that which should be ——— done, by the Chancellor, should be Innocent and Just, yet become High-Treason when done by me, is a thing I understand not.

The next is the Case of *Tonnres*; and, that is waved by them; and well may it be; for, it was in a Case of Plantation; there was no Possession altered, and it is fully within the Book of the Kings Instructions.

The next is in the Case of Sir *John Gifford* against the Lord Viscount *Lastus*, which they have Waved; and, well they may; for it was grounded on a Letter from the King, Commanding it to be heard by the Deputy and Council, which is clearly within the Instructions, and hath been since heard by the King and Council-Board, and by them Confirmed for a Just Decree.

The next is the Case of my Lord of *Kildare*; and, that they may well Wave too; the Proceedings being grounded upon a Letter from His Majesty, and nothing done but in pursuance of an Award between the Lord *Digbyes* House, and that House of *Kildare* made by King *James*.

The next is the Lady *Hibbot* Case; and that was Relief given to Poor Men, circumvented by Practice, to the Prejudice of himself. My Lords, I had Power to hear that Cause, and all Causes of that Nature, by the King's Letter, and according to the Practice of former Deputies: And, I conceive, it will appear, when it comes to be heard, to be a just and fair Decree, I do not any way question that, though I remember little of the business.

But, at the worst, this is but an over-exercising of a Jurisdiction; and, that it should be High-Treason in a Judge to exceed his Jurisdiction, I must confess I never heard it. I told your Lordships the other day, *Bo- no Judici est Amplior Jurisdictio*.

But, that it should be High-Treason to enlarge Jurisdiction, is a perilous Point; and, if it be so, it befits your Lordships, and all Judges, to be well certain'd what you may do, least by going too far, you fall into great Inconveniences.

But, my Lords, I say (under favour) that all these, if they had been done without any manner of Authority, had not been a Subversion, but rather a diversion of the Law: it could not be properly said, to be the subverting of the Fundamental Lawes, though it might be a diverting, and so long as I keep the Rule of the Law, and do the same things that another man does, in a more legal way, I mean in a more warrantable place; I say, my doing of the same thing in an improper place, is not a Subversion, but a diversion of the Law: If you will bring in the *Thames* about *Lambeth*, to come in again below the Bridge, the River is the same, though the Course be diverted to another place: So the Fundamental Law is the same, though the Course be diverted to another place; I say, the Fundamental Law is the same, onely it is carry'd in another Pipe: And, Shall this be said to be a Subverting? Under favour, as the River is the same, so the Law is the same; it is not a subversion, but a diversion. Nor doth it skill where Justice be done (I mean so far as it concerns the Subjects Interest) for, so long as he hath Justice speedily, and with least Charge, his end is complied with, and it concernes not himself, whether he hath it in the Kings Bench, or Common-Pleas; so he hath it speedily, and with the least Charge: And therefore, as long as the Lawes are the same, though Executed by several Persons, and in several places, I cannot conceive it to be a subversion: And, I shall humbly beseech your Lordships, to take care, that while these straynes are put upon me, to make this Personal Charge against me, ye do not through my Sides, Wound the Crown of *England*, by taking that Power from the

Deputy,

Deputy, which must of necessity be lodged in him, if you will have that Kingdom depend upon the Crown of *England*, which I hold, in all Wisdom and Judgment, ought to be cared for: Therefore, I beseech you, prejudice not the Deputy, to the Disabling him from serving the Crown hereafter, by Beating down me, who am this day to Answer before you; For, if you take away the Power of the Deputy, you shall not have that Kingdom long depend upon this Crown; for, it rests under God and His Majesty, and must principally rest upon the care of him that is intrusted with that Charge: And, therefore, give me leave, on the behalfe of the Crown of *England*, to beseech you to be wary of lessening the Deputies Power too much; for, if you do, I fear you will find it a great Disservice to the Crown.

My Lords, the next thing I am Charged with is the 9th Article; That is, a Warrant of Assistance to the Bishop of *Down and Connor*, and, for that, your Lordships see there was but one of them, and have heard it proved, that before my time such Warrants were frequent indeed, no man was denied them: But, my Lords, it must likewise be remembred, that of my own accord, I did recall it, before I was ever questioned for it; and, it is very hard, if he that mends his Faults, should be afterward punished for it; for, it is a Degree of Repentance, and, it is hard, that a man should be finally Condemned after Repentance: and therefore, my Lords, I trust, seeing there was but one of them, seeing I did my self recall it, so willingly, as soon as I found the Inconvenience, I hope that will be easier remitted to me.

The next is the 10th Article, that concernes the Customes, and that is rather to be looked on as a Fraud, then as a Treason, as I conceive it, there is no Treason in the business sure: But, I have proved, the Bargain was honestly made; That there was more offered for it by me then any other; That I had it upon no other Termes, then it was formerly let to others; That I was constrain'd to it whether I would or no; And then, my Lords, if the Bargain, by the Increase of that Kingdom, proove a good and profitable Bargain; it is a very hard Case, that if it be increased through the Kings Wisdom and Goodness, and the Kingdoms Growth, Trade and Traffick, that this should be turned upon me, as an Argument, to make me Guilty of Treason.

I never found a good Bargain should be so charged, so long as it was honest and fair.

But, whereas they press, That I have gained Three Hundred Thousand Pounds Estate by it; it is a very strange mistake: For, the King has out of it His Rent of 15 or 16 Thousand Pounds a year, and Five entire parts of Eight clear to Himself; and therefore it was a strange Calculation, and much mistaken by them that gave the Information of it to the Gentlemen.

For the Book of Rates it was none of mine, but was agreed on before my time; I had nothing to do with it, and therefore have nothing to Answer for it: And, when it shall come to be proved, it will appear, that the Rates were set fairly and justly, and equal betwixt King and People, according to the Law, whatsoever hath been said to the contrary.

The next is the 11th Article, concerning Pipe-Staves, and that is by them waved; and well they may, for the plain truth is, if it had been proceeded in, it would have appeared, that there is come Fifteen hundred pounds gain to the King, and Four hundred pounds loss to my self, and preserving of Woods, and that is all that would be made from that Article.

The next is the business of the Tobacco, which is not applyable to Treason in any kind; but because I would be clear in every Mans Judgment that hears me, I beseech your Lordships to call to mind, it was the Petition of the Commons-House of *Ireland*, that the Grant of Impost on the Tobacco should be taken in, and converted to the Kings use; so that whatsoever was done, was pursuing their intention and desire.

That there was no way but this, to make benefit and profit of it, is most manifestly shewed, that there was a Proclamation in *England* of the like nature, and a Command of the King to proceed in it accordingly; and an Act of Parliament Transmitted here, for Passing it to the Crown, according to the intention of the Commons-House; and, for the greatness of the Bargain, no Proofs hath been offered to your Lordships, but only the Estimate of a Merchant; and, how far your Lordships will be guided by the Estimate of a Merchant I know not; but, I have had Trial of some of them, and their Estimates never hold; for, they have alwayes told me, I shall gain much, and when I came to the point, I gained nothing: and if Sir *George Ratcliffe* should be Sworn to the Point, he should say confidently, that we are Fourscore and six thousand out of Purse, and; when he came out of *Ireland*, but Fourscore thousand pounds received; and this is the Profit Estimated by the great Merchants, at a Hundred and Forty thousand pounds a year: But, at the worst, it is but a Monopoly, and a Monopoly of the best condition, because it was begun by a Parliament. I have seen many Monopolies question'd in Parliament, and many overthrown in Parliament, but, I never heard a Monopoly charged for a Treason.

My Lords, The next is the 13th Article, and that is concerning the Flax business; For that, my Lords, if I had thought it any way concerning me, I could have cleared it in a very great measure; But, I had no private Interest in the business, much less of private profit; but onely an endeavour and desire, to bring in the Trade of Linnen-Cloth to that Kingdom, which would be much advantage to both Kingdoms, and no prejudice to this Kingdom, which a Woollen Trade would have been, if set up there.

And, the Proclamation, when it was found not so well liking to the People, was called in of our own accord, before it was question'd, and so laid aside, and given over.

For any matter of private Benefit, you have no Witness but *Crokey*, a Fellow brought out of Prison; Here is but a single Witness, and a sorry one; a Fellow, who, by misbehaving and misusing the trust committed to him, was turned out; and, upon the turning of him out, the Proclamation was absolutely called in: and, now he comes to be a Witness, being himself the onely offended in the Cause.

But, I beseech your Lordships, to think, I have not lived with so mean a heart in the World, that I should look to gain Four Nobles more or less, upon

upon a Cart Load of Flax ; It is very well known my thoughts have carryed me free enough from gaining so poor and petty a matter, as that is. I know nothing in the World of it, no more than the man in the Moon ; but, when it comes to be heard, your Lordships will find me extreame pure in that ; for, I thank God I have clear hands I assure you.

The 14th is waved by them, concerning an Unlawful Oath given to Masters and Officers of Ships ; and, it might very well be waved ; for, I conceive it to be Warranted by the Law : Sure I am, it is both the Practice of *England* and *Ireland*, and hath alwayes, and at all times, been practised and used, and is onely for the preventing of Fraud and Deceit in Merchants, by not paying the Kings Duties and Customes.

The 15th is Answered already I hope.

The 16th doth Charge upon me certain Propositions I made, before I went into *Ireland* : And, in good Faith, my Lords, you may see, how short-sighted men may be to their own Actions ; for, I did very well believe, I should never have reaped any thing from those Propositions but Thanks ; I am sure they were well received then, when they were offered to His Majesty and the Council ; and, I must truly Confess, I never thought they should be objected against me as a Fault.

My Lords, The Proposition was, That no Man should be allowed to Complain of Injustice or Oppression in *Ireland*, unless he first addressed himself to the Deputy : My Lords, there was no Original Intent, but onely to prevent Clamours, and Unjust Vexations of the Kings Ministers there ; that, after men had received Judgment of the Kings Courts, they might not presently come, and, by Clamours, call over a Chief Justice, or a Chancellor, or President, to Answer here, and be at charge of five or six hundred pounds, unless they acquaint the Deputy with it, that they might be righted in the place ; and, this is Charged against me as a great Crime.

Truely, my Lords, I shall Confess, and Amend any thing, and trust other Judgments rather than mine own ; but, I see not how this can Charge me, as intending to subvert the Laws of the Land, but rather to preserve them.

The other concernes a Proclamation, That none shall depart the Kingdom without License.

My Lords, for that I have shewed, that no man out of that Kingdom, can come without License, but upon very great Penalties. I have shewed likewise, it was the desire of their own Agents some 15 or 16 years since, That there might be such a Restraint, and none might come over without License. I have shewed you likewise, the Instructions to my Lord of *Faulkland*, by which he was Commanded, in persuance of that Desire, that none should come over without his License : I have shewed the express Command of His Majesty to me, to have it so. I have shewed you likewise the Reasons of State, why it should be so, to prevent that practice and Intelligence, which might otherwise arise betwixt them of that Nation, serving under *Tir-Connell* and *O Neale* ; and likewise to prevent the going over, and transplanting the Prime Nobility and Gentry to Seminaries,

minaries, and other such places, there to be brought up: and therefore, in reason of State; it is a Restraint, and ought so to be. But, having these grounds of Law, Warrant, Practice, Former Instruction and all, Why this should be brought to me in particular Charge, to Convince me of endeavouring the Subversion of the Laws, I must submit to your Lordships.

My Lords, There is, in the latter part of this, another Charge, concerning the Sentenceing of one *Parry*, who was Sentenced (as I conceive) very Justly; and, I have no more to answer for in that Sentence, then any of the rest, having but a single Voice; and, that I should answer for all, I confess is something hard. But, there is no manner of Testimony in the World in this, save the Testimony of *Parry* himself: Now, if *Parry*, the Man offended, his Testimony shall be taken against the Judge, I know no Man can be safe, and other Testimony is not offered: and therefore I trust that that will easily fall off of it self.

The 17th is likewise waved; and is, in Truth, of no great Consequence, one way or other, and therefore I shall give no other Answer to it; It was well waved, and had been as well left out, having no great matter in it.

The 18th is likewise waved, but it is that which sticks very heavy upon me; and, wherein I find my self as much afflicted, as in any one part of the Charge: For, my Lords, here I am Charged up and down, to endeavour to draw upon my self a Dependence of the Papists, in both Kingdomes of *Ireland* and *England*; and, that I have, during the time of my Government, restored diverse Mass-Houses in *Dublin* and elsewhere, that have been by Precedent Deputies taken away. I am likewise Charged to have drawn to my self a Dependence of the Irish Army, Eight Thousand, all Papists; and likewise to have miscarried my self in a Commission intrusted with me, before my going into *Ireland*, concerning Compositions for Recusants.

This is a very heavy and grievous Charge, and hath raised a great deal of Ill Opinion against me in the World, to be a Favourer and Contriver with Papists, and I know not whom, against the Religion I profess, a Greater and Foulcr Crime there cannot be against God or Man; and yet this goes in Print all over the World: and, when it comes to the Point, here is no Proof, nor any part of the Charge made good. And, therefore, since it is not made good by the Charge, I humbly desire I may be vindicated in your Lordships Noble Opinions, and the Opinions of all that hear me, that I am, in my Religion, what I ought to be; and, that which I will Dye in, and Maintain against all the World: And, I am so far from Contriving any thing to the hinderance of it, that, if God give me life, I will serve it, and prevent any inconvenience to it: and, my Religion and Duty to God is so Dear, and precious to me, that there is nothing in this World, but I shall lay it down, as Straw and Stubble, under my feet, and trample upon it, rather, then in any kind, forfeit that: but, in the mean time, I suffer, and must be content.

My Lords, The next is the 19th Article; and, that was, for framing a New and Unusual Oath, which the *Scots* did take in *Ireland*, to give Pledges

Pledges of their Allegiance to the King; I have shewed you for that, that the Oath was framed by the Kings express Command in *January*, before the Oath was given, which was, I think, in *May*. And, I did then humbly conceive it lawful for me so to do, being onely to take from them a Pledge of their Allegiance to the King. I confesse, I conceived such an Oath might have been lawfully Administred to the People; and shewed, that the same Oath was Administred here in *England*, to those of that Nation, I shewed that it was taken in *Ireland* voluntarily: And, I humbly represent to your Lordships the time when this Oath was required, when the King and both the Armies were in the Field, lodged not far from one another: And, whereas it is said, it should oblige the Clergy in Ecclesiastical Matters; if your Lordships call to mind, the very Oath it self clears that Point, requiring onely a Temporal Obedience and Allegiance, in a time of that Danger and Distraction, given by the Kings own Command, and to no other purpose.

And, my Lords, the Prooves are nothing at all on the matter; Sir *James Montgomery* tells you a Tale, not much Material; nor Mr. *Maxwell*, nor Sir *John Clotworthy*; there is nothing at all in it concerning Treason. *Stewarts* Sentence remains onely to be Answered in this Article; for that, I conceive it was Justly and Fairly given, as I then conceived. I was one of the rest, and nothing was intended by that Decree, but his Reformation; and, when he had pleased to have taken the Oath, he might have been released of the Sentence, and sent home again quietly.

The next is the 20th Article; Wherein I am Charged to be a Provoker, and Incendiary of a War against His Majesties Subjects of the Scotch Nation; and, that I should say of them, *They were Rebels and Traitors*; and, being about to come into *England*, that I should say, *I would root out of the Kingdom the Scottish Nation Root and Branch*.

My Lords, I shall need no more to say in this, for my being an Incendiary; I think, by the Proove, it hath been clearly made appear to your Lordships, that I gave no Opinion, but such as others did in the like Case. It is proved by my Lord *Traquair*, and my Lord Treasurer, and might have been proved by many more, if it had been needful.

For the Words, that I should say, *The Rooting out the Scots Root and Branch*, They are onely testify'd by one single Witness; *Salmon* the School-Master Swears it, and no man else but he; and, I hope, my Lords, that when your Lordships do call to mind, how he is Crost by his Fellow Witness *John Loftus*, your Lordships will be satisfied; he Swears I will persecute them to the Blood, and Root them out Root and Branch, and, I cannot tell what: But, *John Loftus* said indeed, that I said, I hope that such of the Scottish Nation, as would not submit to the Ecclesiastical Government, I would root out stock and branch: a wonderful difference between these two. But, my Lords, it was testified by Mr. Secretary *Manning* then present, that I neither spoke the one nor the other, but as in my Answer I did truly and faithfully deliver it; I said, that unless they would take that Oath of Allegiance, and secure the King of their Allegiance in that point, I hope I should not see any of them stay in that Kingdom, that refused it: and, there is no Proove in the World but the School-Master; and, I hope, your Lordships will not take him to be a good

good and valid proof to convince me in this Case, being a person of no greater Quality, and crossed by his fellow Witness: For my self, I do absolutely say, I was so far from wishing ill to that Nation, or any Dissension or Division between them, that I never desired other in my heart and soul, but a firm Peace through the Kings Dominions: My Counsels tended to that; and, if I might seem to begin in a contrary way, yet the last resort was, to bring all to quietness, and so, that it should be without Blood. And, I dare say, there be them that heard me say it many a time in the Kings Council, That the King should be in nothing so much sparing and tender, as to draw any Blood in that Quarrel; I dare say, many that heard it will Justifie me in it: And, if your Lordships will give me leave, I do think I have something that might procure your Lordships beliefe that it was so; for, at that time, my Fortune (though now by Misfortune it be mean enough) was such, as I needed not desire to shuffle the Cards, and deale anew; and, especially, when nothing was to be got but Blows; and, that I trust will be an Argument to your Lordships, that nothing was desired by me so much as Peace; and that under Gods goodness, and the Protection and Benefit of His Majesties Scepter, I might enjoy the little Estate my Ancestors left me; for, it is certainly true, whatever the World may think to the contrary, it is very little better from what my Father left me; something it is, and the most part of the Improvement of it was, before I came to serve the King; and yet I have had more from the King then I deserved in all kinds, and all the whole service of my Life, were it never so many years, could not Merit, nor Deserve from Him, the Hundred part of what I had from His Favour.

My Lords, Mr. Treasurer *Vane* sayes, I was in the Argument for an Offensive, and he for a Defensive War, for a War both of us: And, I beseech your Lordships, How should it be more Treasonable for me, to be for an Offensive, then for him to be for a Defensive War? for a War there must be, and the difference was not great: and, for a Counsellor to deliver his Opinion, and have that turned upon him as Capital, to sweep from the World himself and his Posterity, is a very hard Case, to say no more of it.

The next *Article* is the 21th; wherein I am Charged to be an Enemy to Parliaments; a Breaker of Parliaments; and did, by that means, sow ill Affections betwixt the King and His People.

My Lords, This is more fully Charged in a Subsequent Article then this; for, this is but onely for breaking of the last Parliament, that I should advise it to be called, with an intent to break it, which is very unlikely; for, that nothing in the World could be of so happy effect to me, as the success of that Meeting; and yet I must destroy, and disadvantage my self in that, then which, nothing could be of more advantage then the success of that Parliament.

The 22th *Article* is Answered already; and, the 23th likewise.

In the 24th *Article* comes in that of the Parliament more fully; and there I am Charged Falsly, and Treacherously, and Malitiously, to have declared before His Majesties Privy-Council, That the Parliament of
England

England had forsaken the King, and given Him the Advantage to Supply Himself otherwayes; and having so Malitiously Slandered the said House of Commons, that I did, with the Advice of the Archbishop of *Canterbury*, and the Lord *Finch*, Publish a False and Trayterous Book, called, *His Majesties Declaration of the Causes of Dissolving the last Parliament*, &c. This goes very heavy upon me in the World, that I should be a breaker of Parliaments; a Counsellor against Parliaments. My Lords, there is nothing proved of it; and, I hope I shall be cleared by your Lordships, and these noble Gentlemen, and all the World, that I had no such thing in my heart.

For the Point of the Declaration, I was at that time Sick in my Bed, and could do nothing in it, and therefore I trust I shall be acquitted as to that: As to the Breaking of the Parliament, or any ill-will to Parliaments, I have ever honour'd them; and, far be it from me to wish, that they may not be frequent, for the good of the King and Kingdom; but, as oft as you shall have it urged, and prest against me, that I should be an endeavourer to Subvert the Fundamental Laws of the Land in this kind, I beseech your Lordships, call to mind what hath been proved, that at all Publick Debates, at Council, and Privately apart, I have humbly represented to His Majesty, from time to time, that Parliaments are the Onely Way to Settle Himself in Quietness in the Kingdom, and to acquire Prosperity and Happiness to Himself and His People: And, when you shall hear them press upon me, that I have endeavoured to Subvert the Fundamental Lawes of the Land, I beseech your Lordships to call to mind, how frequently and fervently I have advised the King, to call for Parliaments, which, under God, is the great Protection, and Defence of the Fundamental Lawes of the Kingdom.

To the 25th I have Answered already, and to the 26th likewise.

The next is the 27th; and, for that, I can say no more, then that your Lordships have heard the Proofes for the Levying of Money; it hath been cleared to your Lordships, that nothing was done by me, but by Consent of the Country, with their Unanimous good liking, and for their benefit and advantage: Being done so, and for so good ends, as I trust that shall not be enforced against me; and, it is very strange to me why it should be expected, that if two Armies be in the Field, one against the other (as there was at *York*) that they should be Govern'd with as much quietness, as an Attorney walking with his Writs at his Girdle, betwixt the Kings Bench and the Common-Pleas.

For, Armies cannot be Govern'd without some Latitude in this kind: *Inter arma Silent Leges*: rightly applyed, there is truth in that. But, I did nothing in the Business, I did nothing by Compulsion, but by the voluntary liking of the Parties themselves: and therefore, I conceive, that shall not be Charged upon me as Treason.

There remains now the 28th Article; and, that is the onely Bloody Article, if it had been, or could be made good, that is in the whole Charge; for, there I am Charged, out of ill and wicked purposes (and, indeed, What can be worse than Treason) to have Betrayed *Newcastle* into

into the power of the Scotch Army ; and, likewise, to have betrayed the Kings Army at *Newburn*, to a dishonourable Retreat.

My Lords, if either of these had been true, I should have saved your Lordships the labour. I would have given Judgment against my self, that had been certain : But, my Lords, never was any Man more Innocent, therefore they may very well wave it.

Have I been all this while Charged as an Incendiary ? and, Am I now come in the Conclusion to be charged as a Confederate ? it is wonderful strange ! certainly your *Articles* fight one against another in this ; for, How can I be an Incendiary in one part, and a Conspirator with them that Charged me, to be an Incendiary in the other part ?

In good Faith, I have not been very kindly dealt withal by my Confederates, if they be Confederates, to Charge me as an Incendiary, that did them that Service and Help, as to deliver into their hands a Town of such Consequence as that is.

No, my Lords, I wish all happiness to the Nation ; but, I can never wish so to it, as that they should take one of the Kings Towns in *England*, if I could have helped it. My Lords, it was lost before I had the Charge of the Army, I had nothing to do in the business, nor am I to give any Account of it, nor is any thing proved.

And, as to the Defeate at *Newburn*, you yet fight one Article with another, methinks in that too ; for, I am charged to be the Man, that delivered up *Newcastle*, and yet, all the World knows, that nothing could save it from being lost, but the taking away from the Scots the Passages at that time : So, that I should use all means to prevent Men from doing that, which I meant to do for them, is very strange to me. Here is no Probability, and certainly little truth in the whole business, as concerning my Confederating with the *Scots*, either for the one or the other.

And so, my Lords, I am come to the end of these 28 *Articles*, that were for my further Impeachment ; I have gone over them all : and, out of these now there remains, that other Second Treason, that I should be guilty of endeavouring, to Subvert the Fundamental Lawes of the Land, in the first of those Seven *Articles*.

My Lords, That those should now be Treason together, that are not Treason in any one part, and Accumulatively to come upon me in that kind ; and, where one will not do it of it self, yet woven up with others, it shall do it ; Under favour, my Lords, I do not conceive, that there is either Statute-Law, or Common-Law, that hath declared this, endeavouring to Subvert the Fundamental Lawes, to be High Treason.

I say, neither Statute-Law, nor Common-Law Written, that I could hear of ; and, I have been as diligent to enquire of it as I could be ; And, your Lordships will believe I had reason so to do. And, sure it is a very hard thing, I should here be question'd for my Life and Honor, upon a Law that is not Extant, that Cannot be Shewed. There is a Rule that I have read out of my Lord Cook, *Non apparentibus & non existentibus eadem est Ratio.*

Jesus! My Lords, Where hath this Fire lay'n all this while, so many hundred years together, that no Smoak should appear till it burst out now, to consume me and my Children? Hard it is, and extream hard, in my Opinion, that a Punishment should Precede the Promulgation of a Law; that I should be Punished by a Law Subsequent to the Act done. I most humbly beseech your Lordships, take that into Consideration; for, certainly it were better a great deale to live under no Law, but the Will of Man, and Conform our selves in Humane Wisdom, as well as we could; and, to Comply with that Will, then to live under the Protection of a Law, as we think, and then a Law should be made to punish us, for a Crime precedent to the Law: then I conceive no Man living could be safe, if that should be admitted.

My Lords, it is hard in another respect, that there should be no Tokens set upon this Offence, by which we may know it; no manner of Token given; no Admonition by which we might be aware of it. If I pass down the *Thames* in a Boat, and run and Split my self upon an Anchor, if there be not a Buoy to give me warning, the Party shall give me Damages; but, if it be Marked out, then it is at my own peril. Now, my Lords, Where is the Mark set upon this Crime? Where is the Token by which I should discover? if it be not Marked, if it lie under-Water, and not above, there is no Humane Providence can prevent the Destruction of a Man Presently and Instantly. Let us then lay aside all that is Humane Wisdom, let us rely onely upon Divine Revelation; for, certainly, nothing else can preserve us, if you will Condemn us before you tell us where the Fault is, that we may avoid it.

My Lords, may your Lordships be pleased to have that regard to the Peerage of *England*, as never to suffer your selves to be put upon those Moot-points, upon such Constructions, and Interpretations, and Strictness of Law, as these are, when the Law is not clear nor known: If there must be a Tryal of Wits, I do most humbly beseech your Lordships to consider, that the Subject may be of something else, then of your Lives and your Honors.

My Lords, We find, that in the Primitive time, on the Sound and Plain Doctrine of the blessed Apostles, they brought in their Books of Curious Art, and burnt them.

My Lords, it will be likewise, under favour (as I humbly conceive) Wisdom and Providence in your Lordships, for your selves and posterities, for the whole Kingdom, to cast from you into the Fire, those Bloody and Mysterious Volumes, of Constructive and Arbitrary Treasons, and to betake your selves to the Plain Letter of the Statute, that tells you where the Crime is, that so you may avoid it; and let us not, my Lords, be ambitious to be more Learned in those Killing Arts, then our Fore-fathers were before us.

My Lords, It is now full Two hundred and forty years since any Man ever was Touch'd, to this Height, upon this Crime, before my self; We have lived, my Lords, happily to our selves at Home, we have lived Gloriously Abroad to the World; let us be content with that

which our Fathers left us, and let us not awake those Sleepy Lyons to our own Destruction, by Ratling up of a Company of Records, that have lay'n for so many Ages by the Wall, Forgotten, or Neglected.

My Lords, There is this that troubles me extreamly, least it should be my Misfortune to all the rest (for my other Sins, not for my Treasons) that my Precedent should be of that Disadvantage (as this will be, I fear, in the Consequence of it) upon the Whole KINGDOM.

My Lords, I beseech you therefore, that you will be pleased seriously to consider it, and let my particular Case be so looked upon, as that you do not, through me, Wound the Interest of the *Common-Wealth*: For, howsoever those Gentlemen at the Bar say, They Speak for the *Common-Wealth*, and they believe so; yet, under favour, in this particular, I believe I Speak for the *Common-Wealth* too; and, that the Inconveniencies and Miseries that will follow upon this, will be such, as it will come, within a few years, to that which is exprest in the Statute of *Henry the Fourth*, it will be of such a Condition, that no Man shall know what to do, or what to say.

Do not, my Lords, put greater Difficulty upon the Ministers of State, then that with Chearfulness they may Serve the King and the State; for, if you will Examine them by every Grain, or every little Weight, it will be so heavy, that the publick Affaires of the Kingdom will be left waste, and no man will meddle with them, that hath Wisdom, and Honor, and Fortune to lose.

My Lords, I have now troubled your Lordships a great deal longer, then I should have done; were it not for the Interest of those *PLEDGES*, that a Saint in Heaven left me, I would be loth, my Lords—— (here his Weeping stopt him) what I forfeit for my self it is nothing; but, I confess, that my Indiscretion should Forfeit for them, it wounds me very deeply. You will be pleased to pardon my Infirmary; something I should have said; but, I see I shall not be able, and therefore I will leave it.

And now, my Lords, for my Self, I thank God I have been, by his Good Blessing towards me, taught, *That the Afflictions of this present Life, are not to be compared with that Eternal Weight of Glory, that shall be Revealed for us hereafter*: And so, my Lords, even so, with all Humility, and with all Tranquility of Mind, I do submit my self clearly and freely to your Judgments; and, whether that Righteous Judgment shall be to Life, or to Death,

Te Deum Laudamus, Te Dominum Confitemur.

THE

THE
SPEECH
OR
DECLARATION
Of John Pym, Esq

MY LORDS,

MAny dayes have been spent, in maintenance of the impeachment of the Earl of *Strafford*, by the House of Commons, whereby he stands charged with High Treason; and your Lordships have heard his Defence with patience, and with as much Favour as Justice would allow. We have passed through our Evidence, and the result of all this is, that it remains clearly proved, That the Earl of *Strafford* hath endeavoured by his Words, Actions, and Counsels, to subvert the Fundamental Laws of *England* and *Ireland*, and to introduce an Arbitrary and Tyrannical Government.

This is the envenomed Arrow for which he inquired, in the beginning of his replication this day, which hath infected all his Blood; This is that intoxicating Cup, (to use his own Metaphor) which hath tainted his Judgement, and poisoned his Heart: from hence was infused that specificall difference, which turned his Speeches, his Actions, his Counsels, into Treason; not *cumulative*, as he exprest it, as if many misdemeanors could make one Treason; but *formally* and essentially. It is the end that doth inform Actions, and doth specificate the nature of them, making not only criminal, but even indifferent Words and Actions to be Treason, being done and spoken with a Treasonable intention.

That which is given to me in charge, is to shew the quality of the offence, how hainous it is in the nature, how mischievous in the effect of it, which will best appear, if it be examined by that Law, to which he himself appealed, that Universal, that Supream Law, *Salus populi*: This is the Element of all Laws, out of which they are derived, the end of all Laws, to which they are designed, and in which they are perfected; How far it stands in opposition to this Law, I shall endeavour to shew in some considerations, which I shall present to your Lordships, all arising out of the evidence which hath been opened.

The

The First is this, It is an offence comprehending all other offences; here you shall find several Treasons, Murthers, Rapines, Oppressions, Perjuries.

The Earth hath a Seminary Virtue, whereby it doth produce all Herbs and Plants, and other vegetables: There is in this Crime a Seminary of all evils hurtful to a State; and if you consider the reasons of it, it must needs be so: the Law is that which puts a difference betwixt good and evil, betwixt just and unjust; if you take away the Law, all things will fall into a confusion, every man will become a Law to himself, which in the depraved condition of humane nature, must needs produce many great enormities, Lust will become a Law, and Envy will become a Law, Covetousness and Ambition will become Laws; and what dictates, what decisions such Laws will produce, may easily be discerned in the late Government of *Ireland*: The Law hath a power to prevent, to restrain, to repair evils; without this, all kind of mischief and distempers will break in upon a State.

It is the Law that doth entitle the King, to the Allegiance and Service of his People; it entitles the People to the Protection and Justice of the King. It is God alone who subsists by himself; all other things subsist in a mutual dependence, and relation. He was a wise man that said, that the King subsisted by the field that is tilled: it is the labour of the people that supports the Crown: If you take away the protection of the King, the vigor and cheerfulness of Allegiance will be taken away, though the obligation remain.

The Law is the boundary, the measure betwixt the Kings Prerogative, and the Peoples Liberty; whilst these move in their own Orbs, they are a support and a security to one another; the Prerogative a cover and defence to the Liberty of the People, and the people by their Liberty are enabled to be a foundation to the Prerogative, but if these bounds be so removed, that they enter into contestation and conflict, one of these mischiefs must ensue: If the Prerogative of the King overwhelm the Liberty of the People, it will be turned into Tyranny; if Liberty undermine the Prerogative, it will grow into Anarchy.

The Law is the safeguard, the custody of all private Interest, your Honors, your Lives, your Liberties and Estates, are all in the keeping of the Law; without this, every man hath a like right to any thing, and this is the condition into which the *Irish* were brought by the Earl of *Strafford*: And the reason which he gave for it, hath more mischief in it, than the thing it self, *they were a conquered Nation*. There cannot be a word more pregnant and fruitful in Treason, than that word is. There are few Nations in the world, that have not been conquered, and no doubt but the Conqueror may give what Laws he pleases to those that are conquered: but if the succeeding pacts, and agreements, do not limit and restrain that Right, What People can be secure? *England* hath been conquered, and *Wales* hath been conquered, and by this reason, will be in little better case than *Ireland*: if the King, by the right of a Conqueror, gives Laws to his People; shall not the People by the same reason, be restored to the right of the Conquered, to recover their Liberty if they

they can? What can be more hurtful, more pernicious to both, than such propositions as these? And in these particulars is determined the first Consideration.

The Second Consideration is this; This Arbitrary Power is dangerous to the Kings Person, and dangerous to his Crown: it is apt to cherish Ambition, Usurpation, and Oppression in great Men, and to beget Sedition and Discontent in the People; and both these have been, and in reason must ever be, causes of great trouble and alteration to Princes and States.

If the Histories of those Eastern Countreys be perused, where Princes order their affairs according to the mischievous Principles of the Earl of *Strafford*, loose and observed from all rules of Government, they will be found to be frequent in Combustions, full of Massacres, and of the tragical ends of Princes. If any man shall look into our own stories, in the times when the Laws were most neglected, he shall find them full of commotions, of civil distempers; whereby the Kings that then Reigned, were always kept in want and distress; the People consumed with Civil Wars; and by such wicked Counsels as these, some of our Princes have been brought to such miserable ends, as no honest heart can remember, without horror and earnest Prayer, that it may never be so again.

The Third Consideration is this, The Subversion of the Laws; and this Arbitrary Power, as it is dangerous to the Kings Person, and to his Crown, so is it in other respects, very prejudicial to His Majesty in His Honor, Profit, and Greatness; and yet these are the Gildings and Paintings that are put upon such Counsels; These are for your Honor, for your Service; whereas in truth they are contrary to both: But if I shall take off this varnish, I hope they shall then appear in their own Native deformity; and therefore I desire to consider them by these Rules.

It cannot be for the Honor of the King, that His Sacred Authority should be used in the practise of Injustice and Oppression; That His Name should be applied to patronize such horrid crimes, as have been represented in Evidence against the Earl of *Strafford*; and yet how frequently, how presumptuously his Commands, his Letters, have been vouched throughout the course of this Defence? Your Lordships have heard, when the Judges do Justice, it is the Kings Justice, and this is for His Honor, because He is the fountain of Justice: But when they do Injustice, the offence is their own; but those Officers and Ministers of the King, who are most officious in the exercise of this Arbitrary Power, they do it commonly for their advantages, and when they are questioned for it, then they fly to the Kings Interest, to His Direction: And truly my Lords, this is a very unequal distribution for the King, that the dishonor of evil courses should be cast upon him, and they to have the advantage.

The prejudice which it brings to him in regard of his profit, is no less apparent, it deprives him of the most beneficial, and most certain Revenue of his Crown, that is, The voluntary Aids and Supplies of His People; His other Revenues, consisting of goodly Demeans, and great Mannors, have by Grants been alienated from the Crown, and are now exceedingly diminished and impaired: But this Revenue, it cannot be sold, it cannot be burdened with any Pensions or Annuities, but comes intirely

tirely to the Crown. It is now almost Fifteen years since His Majesty had any Assistance from His People; and, these illegal wayes of supplying the King were never prest with more Violence and Art, then they have been in this time; and yet I may, upon very good grounds, affirm, That in the last Fifteen years of Queen *Elizabeth*, She received more, by the Bounty and Affection of Her Subjects, then hath come to His Majesties Coffers, by all the inordinate and rigorous courses which have been taken. And, as those Supplies were more beneficial, in the Receipt of them, so were they like in the use and imployment of them.

Another way of prejudice to His Majesties profit, is this: Such Arbitrary Courses Exhaust the people, and disable them, when there shall be occasion, to give such plentiful Supplies, as otherwise they would do. I shall need no other prooffe of this, then the Irish Government under my Lord of *Strafford*, where the Wealth of the Kingdom is so consumed, by those horrible Exactions and Burdens, that it is thought, the Subsidies lately granted, will amount to little more than half the proportion of the last Subsidies. The two former wayes are hurtful to the Kings profit, in that respect which they call *Lucrum Cessans*, by diminishing his Receipts; But, there is a third, fuller of mischief; and, it is in that respect, which they call *Dammum emergens*, by increasing his Disbursements: such irregular and exorbitant attempts upon the Liberties of the People, are apt to produce such miserable Distractions and Distempers, as will put the King and Kingdomes to such vast Expences and Losses in a short time, as will not be recovered in many years: We need not go far to seek a proof of this, these two last years will be a sufficient Evidence, within which time I assure my self, it may be proved, that more Treasure hath been wasted, more loss sustained by His Majesty and His Subjects, then was spent by Queen *Elizabeth* in all the War of *Tyron*, and in those many brave Attempts against the King of *Spain*, and the Royal Assistance which she gave to *France*, and the Low Countries, during all Her Reign.

As for greatness, this Arbitrary Power is apt to hinder and impair it, not onely at home, but abroad. A Kingdom is a Society of men conjoyned under one Government, for the Common good: The World is a Society of Kingdomes and States. The Kings Greatness consists not onely in His Dominion over His Subjects at home, but in the Influence which he hath upon States abroad; That He should be great even among Kings, and by His Wisdom and Authority, so to incline and dispose the Affairs of other States and Nations, and those great events which fall out in the World, as shall be for the good of Mankind, and for the Peculiar advantage of His own People. This is the most glorious, and magnificent greatness, to be able to relieve distressed Princes, to support his own Friends and Allies, to prevent the Ambitious Designs of other Kings; and, how much this Kingdom hath been impaired in this kind, by the late mischievous Counsels, your Lordships best know; who, at a near distance, and with a more clear sight, do apprehend these publick and great affairs, then I can do. Yet thus much I dare boldly say, that if His Majesty had not, with great Wisdom and Goodness, forsaken that way, wherein the Earl of *Strafford* had put Him, we should, within a short time, have been brought into that miserable condition, as to have been useless to our Friends, contemptible to our Enemies, and incapable of undertaking any great Design, either at home or abroad.

A fourth consideration is, That this Arbitrary and Tyrannical Power, which the Earl of *Strafford* did exercise in his own Person, and to which he did advise His Majesty, is inconsistent with the Peace, the Wealth, the Prosperity of a Nation; It is destructive to Justice, the Mother of Peace; to Industry, the spring of Wealth; to Valour, which is the active Virtue, whereby the prosperity of a Nation can only be procured confirmed, and enlarged.

Its not only apt to take away Peace, and so intangle the Nation with Wars, but doth corrupt Peace, and puts such a malignity into it, as produceth the effects of War. We need seek no other proof of this, but the Earl of *Strafford's* Government, where the Irish, both Nobility and others, had as little security of their Persons or Estates in this peaceable time, as if the Kingdom had been under the rage and fury of War.

And as for Industry and Valour, who will take pains for that, which when he hath gotten, is not his own? or who fight for that wherein he hath no other interest, but such as is subject to the Will of another? The antient encouragement to men, that were to defend their Countreys, was this, That they were to hazard their Person, *pro Aris & focis*, for their Religion, and for their Houses; But by this Arbitrary way which was practised in *Ireland*, and counselled here; no man had any certainty, either of Religion, or of his House, or any thing else to be his own; But besides this, such Arbitrary courses have an ill operation upon the courage of a Nation, by embasing the hearts of the People: A servile condition does for the most part beget in men a slavish temper and disposition. Those that live so much under the Whip, and the Pillory, and such servile Engines, as were frequently used by the Earl of *Strafford*, they may have the dregs of valour, sullenness and stubbornness, which may make them prone to mutinies and discontents; But those noble and gallant affections, which put men to brave designs and attempts for the preservation or enlargement of a Kingdom, they are hardly capable of. Shall it be Treason to embase the Kings Coin, though but a piece of Twelve-pence, or Six-pence? and must it not needs be the effect of a greater Treason, to embase the Spirits of his Subjects, and to set a stamp and character of servitude upon them, whereby they shall be disabled to do any thing, for the service of the King and Commonwealth?

The fifth Consideration is this, that the exercise of this Arbitrary Government in times of suddain danger, by the invasion of an enemy, will disable His Majesty to preserve himselfe and His Subjects from that danger. This is the only pretence by which the Earl of *Strafford*, and such other mischievous Counsellors, would induce His Majesty to make use of it; and if it be unfit for such an occasion, I know nothing that can be alledged in maintainance of it.

When War threatens a Kingdom by the coming of a Forreign Enemy, it is no time then to discontent the people, to make them weary of the present Government, and more inclinable to a change; The supplies which are to come in this way, will be unready, uncertain, there can be no assurance of them, no dependance upon them, either for time or proportion: And if some Money be gotten in such a way, the distractions, divisions, distempers, which this course is apt to produce, will be more prejudicial

to the publique safety, than the Supply can be advantageous to it, and of this we have had sufficient experience the last Summer.

The Sixth, That this crime of subverting the Laws, and introducing an Arbitrary and Tyrannical Government, is contrary to the Pact and Covenant betwixt the King and his People; that which was spoken of before, was the legal union of Allegiance and Protection; this is a personal union by mutual agreement and stipulation, confirmed by Oath on both sides: The King and his People are obliged to one another in the nearest relations, he is a Father and a Child, is called in Law *pater patris*: He is the Husband of the Common-wealth, they have the same interests, they are inseparable in their condition, be it good or evil; he is the Head, they are the Body; there is such an incorporation as cannot be dissolved, without the destruction of both.

When Justice Thorpe in Edward the III. time, was by the Parliament condemned to death for Bribery, the reason of that Judgement is given, because he had broke the Kings Oath, not that he had broke his own Oath, but he had broken the Kings Oath, that solemn and great Obligation, which is the security of the whole Kingdom: If for a Judge to take a small sum, in a private Cause, was adjudged capital, how much greater was this offence, whereby the Earl of Strafford hath broken the Kings Oath in the whole course of his Government in Ireland, to the prejudice of so many of His Majesties Subjects in their Lives, Liberties, and Estates, and to the danger of all the rest?

The Doctrine of the Papists *Fides non est servanda cum Hereticis*, is an abominable Doctrine; yet that other Tenet, more peculiar to the Jesuits, is more pernicious, whereby Subjects are discharged from their Oath of Allegiance to their Prince, whensoever the Pope pleaseth; This may be added to make the third no less mischievous and destructive to humane Society, than either of the rest. That the King is not bound by that Oath which he hath taken, to observe the Laws of the Kingdom, but may when he sees cause, lay Taxes and Burthens upon them without their consent, contrary to the Laws and Liberties of the Kingdom, This hath been Preached and published by divers; And this is that which hath been practised in Ireland by the Earl of Strafford, in his Government there, and endeavoured to be brought into England, by his Counsel here.

The Seventh is this; It is an offence that is contrary to the end of Government; The end of Government was to prevent oppressions; to limit and restrain the excessive power and violence of great men, to open the passages of Justice, with indifferency towards all; This Arbitrary Power is apt to induce and encourage all kind of insolencies.

Another end of the Government, is to preserve men in their Estates, to secure them in their Lives and Liberties; but if this design had taken effect, and could have been settled in England, as it was practised in Ireland, no man would have had more certainty in his own, then Power would have allowed him; but these two have been spoken of before; there are two behind more important, which have not yet been touched.

It is the end of Government, that Virtue should be cherish'd, Vice suppress'd; but where this Arbitrary and unlimited Power is set up, a way is open, not only for the security, but for the advancement and encouragement of evil; such men as are apt for the execution and maintenance of this Power, are only capable of preferment; and others who will not be instruments of any unjust commands, who make a conscience to do nothing against the Laws of the Kingdom, and Liberties of the Subject, are not only not passable for employment, but subject to much jealousy and danger.

It is the end of Government, that all Accidents and Events, all Counsels and Designs should be improved to the publique good: But this Arbitrary Power is apt to dispose all, to the maintainance of it self. The wisdom of the Council Table; The authority of the Courts of Justice; The industry of all the Officers of the Crown, have been most carefully exercised in this; the Learning of our Divines, the Jurisdiction of our Bishops have been moulded and disposed to the same effect, which though it were begun before the Earl of *Strafford's* employment, yet it hath been exceedingly furthered and advanced by him.

Under this colour and pretence of maintaining the King's Power and Prerogative, many dangerous practises against the peace and safety of the Kingdom, have been undertaken and promoted. The increase of Popery, and the favours and encouragement of Papists have been, and still are a great grievance and danger to the Kingdom: The innovation, in matters of Religion, the Usurpations of the Clergy, the manifold burthens and taxations upon the people, have been a great cause of our present distempers and disorders; and yet those who have been chief furtherers and actors of such mischiefs, have had their Credit and Authority from this; that they were forward to maintain this power. The Earl of *Strafford* had the first rise of his Greatness from this; and in his Apology and Defence, as your Lordships have heard, this hath had a main part.

The Royal Power and Majesty of Kings is most Glorious in the Prosperity and happiness of the People; the perfection of all things consists in the end, for which they were ordained, God only in his own end, all other things, have a further end beyond themselves, in attaining whereof, their own happiness consists: if the means and the end be set in opposition to one another, it must needs cause an impotency and defect of both.

The Eighth Consideration, is the vanity and absurdity of those excuses and justifications, which he made for himself, whereof divers particulars have been mentioned in the course of this Defence.

I. That he is a Counsellor, and might not be questioned for any thing which he advised according to his Conscience; The ground is true, there is a liberty belongs to Counsellors, and nothing corrupts Counsels more than Fear; He that will have the privilege of a Counsellor, must keep within the just bounds of a Counsellor; those matters are the proper subjects of Counsel, which in their times and occasions, may be good or beneficial to the King or Common-wealth; But such Treasons as these, the subversion of the Laws, violation of Liberties, they can never be good

or justifiable by any circumstance, or occasion ; and therefore his being a Counsellor, makes his fault much more hainous, as being committed against a greater Trust, and in a way of much mischief and danger, least His Majesties Conscience and Judgement (upon which, the whole course and frame of His Government, do much depend) should be poysoned and infected with such wicked Principles and Designs: And this he hath endeavoured to do, which by all Laws, and in all Times hath in this Kingdom been reckoned a crime of an high Nature.

2. He labours to interest your Lordships in his Cause, by alleadging, it may be dangerous to your selves, and your posterity, who by your Birth are fittest to be near His Majesty, in places of Trust and Authority, if you should be subject to be questioned for matters delivered in Council. To this was answered, That it was hoped their Lordships would rather labour to secure themselves, and their posterity, in the exercise of their Virtues, than of their Vices, that so they might, together with their own Honor and Greatness, preserve the Honor and Greatness, both of the King and Kingdom.

3. Another excuse was this, That whatsoever he hath spoken, was out of good intention. Sometimes good and evil, truth and falshood, lye so near together, that they are hardly to be distinguished: Matters hurtful and dangerous, may be accompanied with such circumstances, as may make it appear useful and convenient, and in all such cases, good intention will justify evil Counsel; But where the matters propounded are evil in their own nature, such as the matters are, wherewith the Earl of *Strafford* is charged, to break a publique Faith, to subvert Laws and Government: they can never be justified by any intentions, how good soever they be pretended.

4. He alleadgeth it was a time of great necessity and danger, when such Counsels were necessary for preservation of the State. Necessity hath been spoken of before, as it relates to the Cause; now it is considered as it relates to the Person; if there were any necessity, it was of his own making; he by his evil Counsel had brought the King into a necessity, and by no rules of Justice can be allowed to gain this advantage by his own fault, as to make that a ground of his justification which is a great part of his offence.

5. He hath often insinuated this, That it was for His Majesties service, in maintainance of that Sovereign Power, with which he is intrusted by God, for the good of his People. The Answer is this, No doubt but that Sovereign Power wherewith His Majesty is intrusted for the publique good, hath many glorious effects, the better to inable him thereunto; But without doubt, this is none of them, That by his own Will, he may lay any Tax or Imposition upon His people, without their consent in Parliament. This hath now been five times adjudged by both Houses, in the case of the Loans, in condemning Commissions of Excise, in the resolution upon the saving offered to be saved to the Petition of Right, in the sentence against *Manwaring*, and now *Lutell*, in condemning the Shipmoney; And if the Sovereign Power of the King, can produce no such effect as this, the Allegation of it is an aggravation, and no diminution of his offence, because thereby he doth labour to interest the King against the just grievance and complaint of the People.

6. This

6. This Counsel was propounded with diverse Limitations and Provisions; for securing and repairing the Liberty of the People. This implies a contradiction to maintain an Arbitrary and Absolute Power, and yet to restrain it with Limitations and Provisions, for even those limitations and provisions, will be subject to the same absolute power, and to be dispensed in such manner, and at such time, as it self shall determine; let the Grievances and Oppressions be never so heavy, the Subject is left without all remedy, but at His Majesties own pleasure.

7. He alleadgeth, They were but Words, and no effect followed; this needs no Answer: but, that the Miserable Distempers into which he hath brought all the three Kingdoms, will be Evidence sufficient, that his Wicked Counsels have had such Mischievous Effects within these two or three last years, that many years peace will hardly repair those losses, and other great Mischiefs which the Common-Wealth hath sustained.

8. These Excuses have been collected out of the several Parts of his defence, perchance some others are omitted, which I doubt not have been Answered by some of my Collegues, and are of no Importance, either to perplex or to hinder your Lordships Judgment touching the hainousness of this Crime.

The 9th consideration is this, That if this be Treason, in the Nature of it, it doth exceed all other Treasons in this, That in the Design and Endeavour of the Author, it was to be a constant and permanent Treason; other Treasons are Transient, as being confined within those particular Actions and Proportions, wherein they did consist, and those being past, the Treason ceaseth.

The Powder Treason was full of horror and maglignity, yet it is past many years since: The Murder of that Magnanimous and Glorious King, *Henry the Fourth of France*, was a great and horrid Treason; and so were those manifold Attempts against Queen *Elizabeth* of blessed Memory; but, they are long since past; the Detestation of them onely remains in Histories, and in the minds of men, and will ever remain: But, this Treason, if it had taken effect, was to be a standing perpetual Treason, which would have been in continual Act, not determined within one time or Age, but transmitted to Posterity, even from one generation to another.

The 10th Consideration is this, That as it is a Crime odious in the Nature of it, so it is odious in the Judgment and Estimation of the Law: To alter the settled Frame and Constitution of Government, is Treason in any state. The Laws, whereby all other parts of a Kingdom are preserved, should be very vain and defective, if they had not a power to secure and preserve themselves.

The Forfeitures inflicted for Treason, by our Law, are of Life, Honor and Estate, even all that can be forfeited; and, this Prisoner having committed so many Treasons, although he should pay all these Forfeitures, will be still a Debtor to the Common-wealth: nothing can be more equal, then that he should perish by the Justice of that Law, which he would have Subverted; neither will this be a new way of Blood, There are Marks enough to trace this
Law

Law to the very Original of this Kingdom: and if it hath not been put in Execution, as he alleadgeth, this 240 years, it was not for want of Law, but, that all that time hath not bred a man, bold enough to commit such Crimes as these; which is a circumstance, much aggravating his Offence, and making him no whit less liable to punishment, because he is the onely Man, that in so long a time hath ventured upon such a Treason as this.

It belongs to the Charge of another, to make it appear to your Lordships, that the Crimes and Offences proved against the Earl of *Strafford*, are High-Treason by the Lawes and Statutes of this Realme, whose Learning and other Abilities are much better for that Service: But, for the time and manner of performing this, we are to resort to the Direction of the House of Commons, having in this, which is already done, dispatched all those Instructions which we have received; and, concerning further Proceedings, for clearing all Questions and Objections in Law, your Lordships will hear from the House of Commons in Convenient time.

THE

T H E
 ARGUMENT
 Of Mr. LANE,
 The PRINCE'S
 ATTORNY-GENERAL,
 On the Behalf of the
 Earl of STRAFFORD,
 In Point of Law.

MY Lords, I shall not at all touch the Matter of Law, further than to clear your Judgments of one Statute only, *viz.* 25 E. 3. because when the same was Alleadged by the Lord *Strafford*, in his own Defence, that not being Convict of the Letter thereof, he could not be Convict of Treason: Remember the Salvo of the Statute was much insisted upon, by those from the House of Commons, as much Conducing to their Ends. My Lords, I will first speak of the Statute it self, and then of it's Salvo or Provision. The Statute is, That if any Man shall Intend the Death of the King, His Queen, their Children; kill the Chancellor, or Judge upon the Bench, Imbase the Kings Coyn, or Counterfeit the Broad-Seal, &c. he shall be Convict, and Punisht as a Traytor: That the Lord *Strafford* comes not within the Letter of this Statute, is not so much as once alleadged, nor indeed it cannot be with any Reason; All that can be said, is, That by Relation, or by Argument (*a Minore ad Majus*) he may be drawn into it; yet, that this cannot be, I humbly offer these Considerations.

First. This is a Declarative Law, and such are not to be taken by way of Consequence, Equity, or Construction, but by the Letter only; otherwise they should imply a Contradiction to themselves, and be no more Declarative Laws, but Lawes of Construction, or Constitutive.

Secondly.

Secondly. This is a Penal Law, and such (if our Grounds, hitherto unquestion'd, hold good) can admit of no Constructions, or Inferences: for Penalties are to perswade the Keeping of Known Lawes, not of Lawes Conjectural, Ambiguous, and by Consequence (which perhaps the most Learned may not, in their Disputes, question, much less the Subject (who is not obliged to Interpret the Statute) doubt of, in the point of Obedience; yea, rather, without any doubt, he is rather to obey the Letter of the Statute, and conceive (and that truly) that he is not liable to the Penalty.

Thirdly, We have a Notable Law, 13 *Eliz. cap. 2.* whereby it is declared, That the Bringing in of Bulls from *Rome*, to stir up the Subject to Mutiny and Rebellion, shall be punished as Treason: Now, if by Interpretation, or by Consequence, this Sence might have been thrust upon the Preceding Statutes, the making of this had been superfluous; yea, the Persons then charged with that Crime, might have been impeached of Treason, even before the making of this Act.

Anno 21 Edm. 3. We have a Statute, declaring, That for a Servant to Kill his Master, is an Act of Treason; and, in the 23th year of the same King, a Process of Treason was framed against a Man for Killing his Father, grounded upon the same Argument *a Minore ad Majus*: But, it was found, and the Sentence is yet in Records, that although in the 21th year of *Edward the Third*, that Argument might have been admitted, yet in the 27th it could not, by Reason of the Declarative Law, Intervening in the 25th year; and, this Case comes very home to the Point in Law.

My Lords, I will not demand, What kind of Offence it may be, for a Man to Subvert the Fundamental Laws of the Kingdom? the Crime, doubtless, is Unnatural and Monstrous, and the Punishment must keep the same Proportion; only I Presume to Offer these few things to your Lordships Consideration.

I. That one, or more Acts of Injustice, whether Malitiously or Ignorantly done, can, in no sence of Law, be called, The Subversion of the Fundamental Laws; if so, as many Judges (perhaps) so many Traytors; 'tis very Incident to Mans Nature to erre; nor doth the Lord *Strafford* plead his Innocency in Overights, but in Treason.

2. I do Remember the Case of *John de la Pole Duke of Suffolk*; this Man, in the 28th of *Henry the Sixth*, was Charged by the House of Commons with Articles of Treason, and those too very like to these against my Lord *Strafford*.

I. That he had given the King bad Advices.

II. That he had Embased His Coyn.

III. That he had Selled Men of War.

IV. That he had given out Summary Decrees.

V. That

V. That he had Imposed Taxes.

VI. That he had Corrupted the Fountain of Justice.

VII. That he had perswaded the King to Unnecessary War, and the giving over of *Anjou* in *France*.

And, for all these, though he was charged with High Treason, for wronging the Right of the Subject, and Subverting the Fundamental Lawes of the Kingdom, yet, after a long agitation, the Matter was found, by the Lords of the Parliament, not to Imply Treason; but only Felony: Add to this another, who, in the 23^d of *Henry* the Eighth, was Charged for subverting the English Laws, and yet no Treason charg'd upon him. Add to both, the Charge of *Richard Larkes*, Pleaded at the Common-Pleas, who was Charged with Treason, for Subverting the Law, but Convicted onely of Felony: By which you may see, my Lords, what to this time hath been Subverting the Lawes.

3. It is very considerable, That the Lord *Strafford* is not charged to have Subverted, but onely to have Intended to Subvert the Fundamental Lawes; and this, I conceive, if there were no more, might keep him free from that Statute, the 25th of *Edward* the Third. For, although, as touching the King, His Queen and Children, Intention is Treasonable; yet, in all other things there mentioned, there must be Action besides Intention: for, it is not said, If a Man do intend to Kill a Chancellor, it shall be Treason, but if he doth Kill him, and if he doth actually Counterfeit the Broad Seal: And, although a Man should prepare a Furnace, make ready his Stamp, melt his Bullion, yet if he gives not the Kings Impression upon the Coyn, all his Intentions, yea, his Preparations will not serve to make up a Treason.

Ye see therefore my Lords, that the Body of the Statute cannot stick against the Lord *Strafford*, neither in Letter nor Consequence, this is not, that must not be: All that can be said, is, That the Fact may be Treason by the Common Law. For my part, I profess my Ignorance, who ever thought the Common Law might declare, but never make a Treason; it might be presupposed, that there is a Statute whereupon to build a Declaration; and therefore, to say there is no Statute for it, it is to say, It is no Treason at all: the Statute ever makes the Treason, and to be declared Treason, either by Common Law, or by Parliament, are but two different wayes of proceedings, and must both resolve into one Principle; nay, and which comes home to the Point, in the 21 of *Edward* the Third; To kill a Man, employed in the Kings War, was Treason: and, the 23^d, to kill the King's Messenger was Treason, by Declaration of the Common Law, but alwayes by reason of the Statute; yet none of these are Treasons, but Felonies onely, because of the intervening Statute of the 25th of *Edward* the Third; such hath ever been thought the force of its Letter and Declaration: and so I will leave it, and a word or two of the *Salvo*, which is this, That because all particulars could not be enumerated, therefore what the Parliament should declare to be Treasonable in time to come, should be punished as a Treason.

M m m m

And

And, according to this Reservative, in the 8th year of King *Richard* the Second, one charged before the Kings Bench, was afterwards referred to the Parliament; and there, though the Fact was not contained in the Body of the Statute, yet because of the Proviso afore-mentioned, it was Adjudged Treason.

In the 11th year of the same King, the Duke of *Ireland*, and *Nevill* Archbishop of *York*, were Impeached of High-Treason by *Gloucester*, *Arundel*, and *Warwick*, and, notwithstanding the Statute, were convicted thereof by the Salvo; but, in the 21 of the same *Richard* the 2^d the Tide turned, and the King had such a Hand with the Parliament, that the Sentence was Recalled, and those Three Noblemen themselves were Adjudged Traytors; again in the 1 of *Hen.* the Fourth His Successor, that Revocation of the 21 *Richard* the Second was Repealed, and the Sentence of the 11th of His Reign Established: Such were the tossings too and fro of Treason, and all because of that uncertain Proviso.

Therefore it was, that in the same Parliament, the 1 *Hen.* the Fourth, a Petition was preferred by the Nobility, to have Treason limited within some Statute; Because they knew not what to speak, or what to do for fear thereof: And, in *Chap.* 10. an Act was made upon this Petition, That the Salvo should be holden Repealed in all times to come, and nothing esteemed Treason, but what was Literally contained in the 25th of *Edward* the Third. And therefore it is said in the Records, That there was Great Joy at the making of this Act; in that the Drawn Sword, hanging over every Mans head, by this Slender Thread of a Consequence or Illation, was removed by that Act. Add to this, that in the First of *Queen Mary*, *Cap.* 1. the same is Repeated, That no Man shall be punished in Life or Estate, as a Traytor, but for the Crime contained in the Statute of 25 *Edward* the Third, without the least mention of the pretended Salvo.

The Earl of *Northumberlands* Case comes nigh to the Point, he was charged with Treason the 5th of *Henry* the Fourth, and if the Statute of the 1 *Henry* 4th, *Chap.* 10. whereby this Proviso is Repealed, had not intervened, no doubt he had been Condemned of Treason; but, he was onely Convict of Felony; and that because he could not be drawn within the Letter of the Statute of the 25th of *Edward* the Third. And, I dare confidently say it, that since that Act was made, the 1 *Henry* the Fourth, *Chap.* 10. whereby the Proviso is Repealed, no Man hath ever been declared a Traytor, either by King or Parliament, except it were upon that, or some other Statute Literally and Declaratively taken. These two things I do offer to your Lordships Considerations, That the Lord *Strafford* cannot be Impeached of Treason, by the Statute of 25th *Edward* the Third; and, that the Salvo, contained in the same, stands Repealed, almost Two hundred years agoe. And this is all, I conceive, to be necessary for that Statute, which was Alledged by the Lord *Strafford*, in his Defence, for matter of Law.

The Recorder said, He could add nothing to what the former Counsel had spoken, for matter of Law; but, if their Lordships would state unto him any further Questions, he was ready to give his Resolution according to his best ability.

Mr. St. JOHN'S

ARGUMENT

O F

LAW;

CONCERNING

The Bill of Attainder,

April 29th, 1641.

MY Lords, The Knights, Citizens, and Burgesſes of the Commons Houſe of Parliament, have paſſed a Bill, for the Attainting of *Thomas Earl of Strafford* of High-Treſon. The Bill hath been tranſmitted from them to your Lordſhips; it concerns not him alone, but your Lordſhips and the Commons too, though in different reſpects.

It concerns his Lordſhip the higheſt that can be in the Penal Part; ſo it doth, on the other ſide, as highly concern your Lordſhips and the Commons, in that which ought to be the tendreſt, the Judicatory within that, that Judge not them who Judge him, and in that which is moſt Sacred amongſt Men, the Publick Juſtice of the Kingdom.

The King is to be accounted unto, for the loſs of the meaneſt Member, much more of one ſo near the Head.

The Commons are concerned in their Account for what is done, your Lordſhips in that which is to be done.

The buſineſs therefore of the preſent Conference, is to acquaint your Lordſhips with thoſe things, that ſatisfy'd the Commons in Paſſing of this Bill;

Bill; such of them as have come within my capacity, and, that I can remember, I am Commanded from the Commons at this time, to present unto your Lordships.

My Lords, in Judgment of greatest Moment, there are but two ways for satisfying those, that are to give them; either the *Lex lata*, the Law already established, or else the use of the same Power for making new Laws, whereby the old at first received life.

In the first consideration of the settled Laws, in the degrees of Punishment, the Positive Law, received by General Consent, and for the Common Good, is sufficient, to satisfy the Conscience of the Judge, in giving Judgment according to them.

In several Countries, there is not the same measure of Punishment, for one and the same Offence; Willful Murder in *Ireland* it is Treason, and so is the wilfull Burning of a House, or a Stack of Corne: In the Isle of *Man* it is Felony to Steal a Hen, but not to steale a Horse; and yet the Judge in *Ireland*, hath as just a Ground to give Judgement of High-Treason in those Cases there, as here to give Judgment onely of Felony; and in the Isle of *Man* of Felony for the Hen, as here of Pety-Larceny.

My Lords, in the other Consideration of using the Supream Power, the same Law gives power to the Parliament to make new Lawes, that enables the inferiour Court, to Judge according to the old. The Rules that guides the Conscience of the inferiour Court is from without, the Prescripts of the Parliament, and of the Common-Law; in the other, the Rule is from within, that *Salus populi* be concerned, that there be no wilful oppression of any of the Fellow-Members, that no more Blood be taken then what is necessary for the Cure, the Lawes and Customes of the Realm as well enable the Exercise of this, as of the Ordinary and Judicial Power.

My Lords, What hath been said, is because that this proceeding of the Commons by way of Bill, implies the use of the meer Legislative Power, in respect new Lawes are for the most part pass by Bill.

This, my Lords, though just and legal, and therefore not wholly excluded; yet it was not the onely ground that put the Commons upon the Bill, they did not intend to make a new Treason, and to Condemn my Lord of *Strafford* for it; they had in it other considerations likewise, which were to this effect.

First, The Commons knew, that in all former Ages, if doubts of Law arose of great and general concernments, the Parliament was usually consulted withal for resolution, which is the reason that many Acts of Parliament are onely Declarative of the Old Law, not Introductive of a New, as the Great *Charter* of our Liberties; The Statute of Five and Twentieth year of *Edward* the Third of Treasons; The Statute of the Prerogative, and of late the Petition of Right; if the Law were doubtful in this Case, they perceived the Parliament (where the old way is altered, and new Lawes made) the fittest Judge to clear this Doubt.

Secondly, My Lords, they proceeded this way, to obviate those Scruples and Delays, which through disuse of proceedings of this nature, might have risen in the manner and way of proceedings, since the Statute of the First of *Hen. 4. Cap. 17.* and more fully in the Roll, number 144. The proceedings of *Parliament* have usually been upon an Indictment first found, though in Cases of Treason particularly mentioned in the Statute

of 25 *Edw.* 3. which had not been done in this case; doubts likewise might rise, for Treasons, not particularly mentioned in the Statute of 25 *Edw.* 3. whether the Declaratory Power of Parliament be taken away, in what manner they were to be made, and by whom, they find not any Attainders of Treason in Parliament, for near this 200 years, but by this way of Bill; and again, they know that whatsoever could be done any other way, it might be done by this.

Thirdly, In respect of the Proofs and Depositions, that have been made against him; for First, although they knew not, but that the whole Evidence which hath been given at the Barr, in every part of it, is sufficiently comprehended within the charge, yet if therein they should be mistaken, if it should prove otherwise, use may justly be made of such Evidence in this way of Bill, wherein so as Evidence be given in; it's no way requisite that there should have been any Articles or Charge at all; and so in the case of double Testimony upon the Statute of the 1 of *Edw.* 6. whether one direct Witness, with others, to circumstances, had been single or double Testimony? And although single Testimony might be sufficient to satisfy private Consciences, yet how far it would have been satisfactory in a judicial way, (where forms of Law are more to be stood upon) was not so clear; whereas in their way of Bill, private satisfaction to each mans Conscience is sufficient, although no Evidence had been given in at all.

My Lords, The proceeding by way of Bill, it was not to decline your Lordships Justice in the judicial way, in these exigends of the State and Kingdom; it was to Husband time, by silencing those doubts, they conceived it the speediest and surest way.

My Lords, these are in effect, the things the Commons took into their Consideration, in respect of the manner and way of Proceeding against the Earl.

In the next place I am to declare unto your Lordships, the things they took into their Considerations, in respect of the Matter and Merits of the Cause, and they are comprehended within these six heads.

1. That there is a Treason within the Statute of 25 of *Edw.* III. by Levying of War upon the Matter of the 15th Article.

2. If not by actual levying of War, yet by advising, and declaring his intention of War, and that by *Savil's* Warrant, and advice of bringing over the Irish Army upon the Matter in the 23 Article; then intending of a War, if not within the clause of levying of a War, in the Statute of 25th *Edw.* 3. yet within the first Treason, of compassing the death of the King.

3. If either of these two single Acts, is within the Statute of 25th *Edw.* 3. yet upon putting all together, which hath been proved against him, that there's a Treason within the first Clause, of Compassing the death of the King.

Et si non Profunt singula juncta juvant.

4. That

4. That he hath Sessed, and laid Soldiers upon the Subjects of *Ireland*, against their Will; and at their Charge, within the Irish Statute of the 18th year of *Hen. 6th.* that both Person and thing are within the Statute; That the Statute remains in force to this day, that the Parliament here hath cognizance of it, and that even in the ordinary way of Judicature, that if there be a Treason and a Traitor, that the want of Jurisdiction, in the judicial way, may justly be supplied by Bill.

5. That his endeavouring to subvert the Fundamental Laws and Government of the Realms of *England* and *Ireland*; and instead thereof, to introduce a Tyrannical Government against Law, is Treason by the Common-Law; That Treasons at the Common-Law are not taken away by the Statute of 25th *Edw. 3.* 1 *Hen. 4th. &c.* nor any of them.

6. That as this case stands, it's just and necessary to resort to the Supreme Power in Parliament, in case all the rest should fail.

Of these six, five of them are Treason, within the compass of the Laws already established, Three within the Statute of 25th *Edw. 3.* and one within the Irish Statute, the other by the Common-Law of *England*.

If but any one of these Six Considerations hold, the Commons conceive, that upon the whole matter, they had good cause to pass the Bill.

My Lords, For the first, of Levying War, I shall make bold to read the case to your Lordships before I speak to it, It's thus. The Earl did by Warrant under his Hand and Seal, give Authority to *Robert Savil*, a Sergeant at Arms, and his Deputies, to Sesse such numbers of Soldiers, Horse and Foot, of the Army in *Ireland*, together with an Officer, as the Sergeant should think fit, upon His Majesties Subjects of *Ireland*, against their Will; this Warrant was granted by the Earl to the end, to compell the Subjects of *Ireland* to submit, to the unlawful Summons and Orders made by the Earl upon Paper Petitions, exhibited to him in case of private interest between party and party; this Warrant was executed by *Savil* and his Deputies, by sassing of Soldiers, both Horse and Foot, upon divers of the Subjects of *Ireland* against their Wills, in warlike manner, and at divers times the Soldiers continued upon the parties, upon whom they were sessed, and wasted their Goods, until such time as they had submitted themselves, unto those Summons and Orders.

My Lords, This is a Levying War within the Statute of 25th *Edw. 3.* The words of the Statute are, *If any man do Levy War against our Lord the King in His Realm, this is declared Treason.*

I shall endeavour in this to make clear to your Lordships,

1. What shall be a Levying of War, in respect of the motive or cause of it.

2. What shall be said a Levying of War, in respect of the action or thing done.

3. And in the third place, I shall apply them to the present case.

It will be granted in this levying of War, that Forces may be raised, and likewise used in Warlike manner, and yet no levying of War within the Statute, that is, when the Forces are raised and employed upon private ends, either of revenge or interest.

Before

Before this Statute in *Edw.* the 1. time, the Title of a Castle was in difference between the Earls of *Hereford* and *Gloucester*, for the maintaining of the possession on the one side, and gaining of it on the other; Forces were raised on either side of many hundred men; they marched with Banners displayed, one against another. In the Parliament, in the 20th year of *Edward* 1. this was adjudged only Trespass, and either of the Earls Fined 1000 Marks apiece.

After the Statute in *Hillary Term*, in the 15th year of *Edw.* the 3. in the *Kings-Bench Rot.* 3. *Nicholas Huntercome* in Warlike manner with 40 men, armed amongst other weapons, with Guns (so ancient, as appears by that Record, they were) did much spoil in the Mannor of the Abby of *Dorchester*, in the County of *Oxford*, this was accounted no Treason, and so it hath been held by the Judges, That if one or more Town-ship, upon pretence of saving their Commons, do in a forcible and warlike manner throw in inclosures, this is only a Riot, no Treason.

The words of the Statute 25 *Edm.* 3. clear this point, that if any man ride Armed openly or secretly with men at Arms, against any other, to kill and rob, or to detain him until he hath made Fine and Ransome for his deliverance, this is declared not to be Treason, but Felony or Trespass, as the Case shall require: all the printed Statutes which have it covertly or secret, are misprinted, for the words in the Parliament Roll, as appears in the 17th. are, *Discoverment ou secretement*, Open or Secretly.

So that my Lords, in this of Levying War, the Act is not so much to be considered, but as in all other Treasons and Felonies, *quo animo*, with what intent and purpose?

My Lords, If the end be considerable in Levying War, it may be said that it cannot be a War, unless against the King, for the words of the Statute are, *If anyman Levy War against the King*.

That these words extend further than to the person of the King, appears by the words of the Statute, which in the beginning declares it to be Treason, to compass and imagine the death of the King, and after other Treasons, this is to be declared to be Treason, to Levy War against the King; If Levying of War, extend no further than to the Person of the King, these words of the Statute are to no purpose, for then the first Treason of compassing the Kings death, had fully included it before, because that he which Levies War against the Person of the King, doth necessarily compass his death.

It's a War against the King, when intended for alteration of the Laws or Government in any part of them, or to destroy any of the Great Officers of the Kingdom. This is a Levying War against the King.

1. Because the King doth protect and maintain the Laws in every part of them, and the great Officers, to whose care, he hath in his own stead, delegated the execution of them.

2. Because they are the Kings Laws, he is the Fountain from whence in their several Channels, they are derived to the Subject: all our Indictments run thus, Trespasses laid to be done, *Contra pacem Domini Regis*, the Kings Peace for exorbitant offences, though not intended against the King's Person, against the King, his Crown and Dignity.

My Lords, this construction is made good, by divers Authorities of great weight, ever since the Statute of 25th of *Edm.* 3. downwards.

Object.

Answer.

In

In R. the 2. time, Sir *Tho. Talbot* conspired the death of the Dukes of *Glocester* and *Lancaster*, and some other of the Peers; for the effecting of it, he had caused several People in the County of *Chester*, to be Armed in Warlike manner in Assemblies in the Parliament, held in the 17th year of R. 2. No 20. Sir *Thomas Talbot* being accused of High Treason for this: It's there declared, inso much as one of them was Lord High Steward of *England*, and the other High Constable, that this was done in destruction of the Estates of the Realm, and of the Laws of the Kingdom, and therefore adjudged Treason, and the Judgement sent down into the *Kings Bench*, as appears, *Easter Term*, in the 17th year of R. 2. in the *Kings Bench Rot.* 16th. These two Lords had appeared in the 11th of R. 2. in maintenance of the Act of Parliament made in the year before, one of them was of the Commissioners appointed by Parliament, and one of the Appealors of those who would have overthrown it.

The Duke of *Lancaster* likewise was one of the Lords, that was to have been Indicted of Treason, for endeavouring the maintenance of it; and therefore conspiring of their deaths, is said to be in destruction of their Laws; This there is declared to be Treason, that concerned the Person of the King and Common-wealth.

In that great insurrection of the Villains, and meaner People, in *Richard* the II. time, they took an Oath, *Quod Regi & Communibus fidelitatem servarent*, to be true to the King and Commons, and that they would take nothing but what they paid for, punished all theft with death; here's no intendment against the Person of the King; The intent was, to establish the Laws of Villanage and Servitude, to burn all the Records, to kill the Judges: This in the Parliament of the 5th year of R. 2. No. 31, 32. the First Part, is declared to be Treason against the King, and against the Law.

In the 11th year of R. 2. in Parliament, the raising of Forces against the Commissioners, appointed by Act of Parliament the year before, adjudged Treason by all the Judges.

The Statute 1^{mo} *Mary Cap.* 12. Enacts, That if 12 or more shall endeavour by force, to alter any of the Laws or Statutes of the Kingdom, he shall from such a time there-limited, be adjudged only as a Felon. This Act was to continue but to the next Parliament, it is expired, it shews by the words only, that the offence was higher before the making it.

My Lords, In *Queen Elizabeths* time, *Grant* and divers Apprentices of *London*, to the number of 200. rose, and assembled at *Tower-hill*, carried a Cloak upon a Pole instead of a Banner, their intent was to deliver divers Apprentices out of Prison, that had been committed upon a Sentence in the *Star-Chamber* for Riots, to kill the Lord Mayor of *London*, and for setting prizes on Victuals. In *Trinity Term*, 37 *Eliz.* divers of the Judges were consulted withal, and resolved, That this was a Levying of War against the Queen, being intended against the Government and Officers of the Queen, and therefore *Grant* and others were executed as Traitors.

Afterwards, in that Queens time, divers of the County of *Oxford* consulted, to go together from House to House in that County, and thence to *London* and other parts, to excite them to take up Arms, for the throwing in of all inclosures throughout *England*. Nothing was done, nor no assembly. Yet the Statute of 13 *Eliz. Cap.* 1. during the Queens Life, made it Treason, to intend, or advise to Levy War against the Queen.

In *Easter Term* 39 of *Eliz.* all the Judges of *England* met about the Case, it was resolved by them, that this was a War intended against the Queen; they agreed, That if it had been of one Township or more, upon

on private interest, and claim of right of Common, it had not been Treason, but this was to throw in all Inclosures through the Kingdom, whereunto these parties should pretend no claim. That it was against the Law, in regard that the Statute of *Merton* gave power of Inclosures in many Cases: upon this resolution *Bradshaw* and *Burton* were executed at *Aynestow-hill* in *Oxfordshire*, the place where they intended the first Rendezvous.

So that my Lords, if the end of it be to overthrow any of the Statutes, any part of the Law and settled Government, or any of the great Officers intrusted with the execution of them, This is a War against the King.

My Lords, It will be further considerable, what shall be accounted a Levying of War, in respect of the actions and things done; there's a design to alter some part of the Laws, and present Government, for the effecting thereof, People be provided of Arms, gathered together into Troops, but afterwards march not with Banners displayed, nor do *bellum percutere*, whether the Army themselves, and gathering together upon this design, be a War, or such prosecution of the Design with force, as makes it Treason within the Statute?

First, If this be not a War, in respect that it necessarily occasions hostile preparations on the other side.

Secondly, From the words of the Statute, shall Levy War, and be thereof probably Attainted of open Deed, by People of their condition; altho the bare conspiring be not an open Deed, yet whether the Arming and Drawing of men together, be not an open Declaration of War?

In Sir *Thomas Talbots* Case before cited, in the Seventeenth year of R. II. the Acts of Force are expressed in the Parliament Roll; That he caused divers of the People of the County of *Chester*, to be armed in a Warlike manner in Assemblies, here is no Marching, no Banners displayed.

In the Eighth year of *Hen. VIII.* *William Bell* and *Thomas Lacy* in *Com. Lanc.* conspired with *Thomas Cheyney*, called the *Hermite of the Queen of Faries*, to overthrow the Law and Customs of the Realm; and for the effecting of it, they with Two hundred more, met together, and concluded upon a course of raising greater Forces in the County of *Kent*, and the adjacent Shires: This adjudged Treason; these were open Acts.

My Lords, For the application of both these, to the case in question:

First, In respect of the end of it; here was a War against the King, it was to subvert the Laws, this being the design; for the effecting of it, he assumed to his own Person an Arbitrary Power over the Lives, Liberties, and Estates of His Majesties Subjects, and determined Causes upon Paper-Petitions, at his own Will and Pleasure; Obedience must be forced by the Army, this is declared by the Warrant.

My Lords, If it be said that the Warrant expresseth not any intent of subverting the Laws; It expresseth fully one of the principal means, whereby this was to be done, that is, obedience to his arbitrary Orders upon Paper-Petitions; This was done in reference to the main design.

In the cases of the Town of *Cambridge* and Sir *William Cogan*, they have formerly been cited to your Lordships upon other occasions, the things in themselves were not Treason, they were not a Levying of War.

In that of *Cambridge*, the Town met together, and in a forcible manner broke up the University-Treasury, and took out of it the Records, and Evidences of the Liberties of the University over the Town.

In the other, they of *Bridgewater* marched to the Hospital, and compelled the Master of the Hospital, to deliver unto them certain Evidences that concerned the Town, and forced him to enter into a Bond of 200 l.

These if done upon these private ends alone, had not been a Treason, as appears by the very words of the Statute of 25 *Edw. 3.* before-mentioned, of marching openly or secretly.

But my Lords, these of *Cambridge* and *Bridgewater*, they were of the conspiracy with the Villains, as appears in the Parliament-Roll of the First year of *Rich. the 2.* Numb. 311. and 32. where the Towns of *Cambridge* and *Bridgewater*, are expressly excepted out of the general Pardon made to the Villains; this being done in reference to that design of the Villains, of altering the Laws; this was that which made it Treason.

If the design went no further, than the enforcing Obedience to these Paper Orders made by himself, it was sufficient it was to subvert one fundamental part of the Law; nay, in effect the whole Law; what use of Law, if he might order and determine of mens Estates at his own pleasure? This was against the Law notoriously declared in *Ireland*.

In the close Roll in the *Tower*, in the 25th year of *Edward the 1.* a Writ went to the Justices in *Ireland* (that Kingdom at that time was governed by Justices) declaring, That upon Petitions they were not to determine any Titles between party and party, upon any pretence of profit whatsoever to the King.

In the Eight and twentieth year of *Hen. the 6th. Chap. 2.* Suits in Equity not before the Deputy, but in *Chancery*; Suits at Common-Law, not before him, but in cases of Life in the *Kings-Bench*; for Title of Lands or Goods in the proper Courts of the *Kings-Bench*, or *Common-Pleas*.

This declared in the Instructions for *Ireland*, in the latter end of King *James* His time, and by the Proclamation in His Majesties time; my Lord took notice of them called the Commissioners, narrow-hearted Commissioners.

The Law said, He should not thus proceed in the subversion of it, he saith he will, and will enforce Obedience by the Army, this is as much, in respect of the end, as to endeavour the overthrow of the Statutes of Labourers, of Victuals, or of *Merton* for Inclosures; here is a Warrant against the King, in respect of the end.

2. In respect of the Actions, whether there be either a Levying of War, or an open Deed, or both.

My Lords, There was an Army in *Ireland* at that time, of Two thousand Horse and Foot; by this Warrant there is a full designation of this whole Army, and an Assignment of it over to *Savill* for this purpose.

The Warrant gives him power from time to time, to take as many Soldiers, Horse and Foot, with an Officer throughout the whole Army, as himself shall please; here is the terror and awe of the whole Army to enforce Obedience. *My Lords*, If the Earl had Armed two thousand men Horse and Foot, and formed them into Companies to this end, your Lordships would have conceived, that this had been a War. It's as much as in the Case of Sir *Thomas Talbot*, who armed them in Assemblies.

This is the same with a breach of Trust added to it.

That

That Army which was first raised, and afterwards committed to his Trust, for the defence of the People, is now destined by him to their destruction. This assignation of the Army by his Warrant, under his Hand and Seal, is an open Act.

My Lords, Here's not only an open Act done, but a Levying of War, Soldiers, both Horse and Foot, with an Officer in Warlike manner assailed upon the Subject, which killed their Cattel, consumed and wasted their Goods.

Your Lordships observe a great difference, where six men go upon a design alone, and when sent from an Army of six hundred, all engaged in the same service, so many were sent as were sufficient to execute the Command, if upon a poor man fewer, more upon a rich; if the six had not been able, the whole Army must make it good. The reason that the Sheriff directed alone, or but with one Bayliff to do execution, is, because he hath the Command of the Law, the Kings Writ, and the *Posse Comitatus* in case of resistance. Here's the Warrant of a General of an Army; Here's the *Posse Exercitus*, the Power of the Army, under the awe of the whole Army, six may force more, than sixty without it; and although never above six in one place, yet in several parts of the Kingdom at the same time, might be above sixty; for selling of Soldiers was frequent, it was the ordinary course for execution of his Orders.

The Lord-Lieutenant of a County in *England*, hath a design to alter the Laws and Government; nay, admit the design goes not so high, he only declares thus much, he will order the Freeholders and Estates of the Inhabitants of the County, at his own will and pleasure, and doth accordingly proceed upon Paper-Petitions, foreseeing there will be disobedience, he grants out Warrants under his Hand and Seal, to the Deputy-Lieutenants and Captains of the Trained-bands, that upon refusal, they will take such number of the Trained-Bands through the County, with Officers, as they shall think good, and lay them upon the Lands and Houses of the refusers, Soldiers in a Warlike manner are frequently seized upon them accordingly; your Lordships do conceive, that this is a Levying of War within the Statute.

The Case in question goes further in these two Respects.

That it is more against the declared Law in *Ireland*, not only against the Common-Law, but likewise against the Statute of 28 *Hen. 6th.* against the Acts of the Commissioners; against Proclamations in pursuance of the Law; against that himself took notice of narrow-hearted Commissioners.

In this, that here was an Army, the Soldiers by profession, acts of Hostility from them of greater terror, than from Freeholders of the same County.

My Lords, I have now done with the First of Levying of War.

The Second is the Machination, the advising of a War.

The Case in this, rests upon a Warrant to *Savile*, and the advice in the 23 *Article*.

The Warrant shews a resolution of employing the old Army of *Ireland*, to the oppression of His Majesties Subjects, and the Laws.

In the 23 *Article*, having told His Majesty, that he was loosed and absolved from Rules of Government, and might doe every thing which Power might admit; he proceeded further in speech to His Majesty in these words; *You have an Army in Ireland, you may employ to reduce this Kingdom.*

My Lords, Both being put together, there's a Machination, a practice, an advice to Levy War, and by force to oppress and destroy His Majesties Subjects.

It hath been said, the Statute of the 25 *Edw. 3.* is a penal Law, and cannot be taken by equity and construction, there must be an actual War; the Statute makes it Treason to counterfeit the Kings Coin, the conspiring, the raising of Furnaces is no Treason, unless he doth *Nummum percutere*, actually Coin.

My Lords, This is only said, not proved; the Law is otherwise, the 19th *Hen 6. fol. 49.* there adjudged, That the conspiring and aiding to counterfeit Coin was Treason, and Justice *Stamford* (*fol. 331. & 44.*) is of opinion, that this, or the conspiring to counterfeit the Great Seal, is Treason. The Statute is, If any shall counterfeit the Great Seal, conspiring to do it by the Book, is Treason; if a man take the Broad Seal from one Patent, and put it to another, here is no counterfeiting, it's tantamount, and therefore Treason, as is adjudged in 2 *Hen. 4. fol. 25.* and by the opinion of *Stamford*, If Machination or Plotting a War be not within that clause of the Statute of Levying of War, yet it is within the first, of compassing the death of the King, as that which necessarily tends to the destruction both of King and People, upon whose safety and protection he is to engage himself. That this is Treason, hath been adjudged, both after the Statutes of 1 *Hen. 4. cap. 10.* and 1 *Queen Mary*; so much insisted upon on the other side. In the Third year of King *Hen. 4th*. one *Balsbal* coming from *London*, found one *Bernard* at Plough, in the Parish of *Osley*, in the County of *Hertford*, *Bernard* asked *Balsbal* what news? he told him, that the news was, That King *Richard* the Second was alive in *Scotland* (which was false, for he was dead,) and that by Midsummer next, he would come into *England*; *Bernard* asked him, What were best to be done? *Balsbal* answered, Get Men, and go to King *Richard*. In *Michaelmas* Term, in the Third year of *Hen. 4th*. in the *Kings Bench Rot. 4.* This advice of War adjudged Treason.

In *Queen Mary's* time, Sir *Nicholas Throckmorton* conspired with Sir *Thomas Wyat*, to Levy War within this Realm for alteration in Religion, he joyned not with him in the execution. This conspiracy alone declared to be Treason by all the Judges; this was after the Statute of *Queen Mary*, so much insisted upon.

That Parliament ended in *October*, this opinion was delivered the *Easter* Term following, and is reported by Justice *Dyer, fol. 98.* It's true, Sir *Thomas Wyat* afterwards did Levy War; Sir *Nicholas Throckmorton* he only conspired. This adjudged Treason.

One Story in *Queen Elizabeth's* time practised with Foreigners, to levy War within this Kingdom, nothing done in persuance of the practice. The intent without any adhering to enemies of the Queen, or other cause, adjudged Treason, and he executed thereupon.

It's true my Lords, that year 13 *Eliz.* by Act of Parliament it's made Treason, to intend the levying of War; this Case was adjudged before the Parliament: The Case was adjudged in *Hillary* Term; the Parliament begun not till the *April* following. This my Lords, is a Case judged in point, that the practising to levy War, though nothing be done in execution of it, is Treason.

Object.

Object. It may be Objected, That in these Cases, the Conspiring being against the whole Kingdom, included the Queen, and was a compassing Her destruction, as well as of the Kingdoms, here the Advice was to the King.

Object.

Ans. The Answer is first, That the Warrant was unknown to His Majesty, that was a Machination of War against the People and Lawes, wherein His Majesties Person was engaged for Protection.

Ans.

Secondly, That the Advice was to His Majesty, aggravates the Offence, it was an Attempt which was the Offence; it was an Attempt not only upon the Kingdom, but upon the Sacred Person and His Office too; himself was *hostis patriæ*, he would have made the Father of it so to: Nothing more unnatural nor more dangerous, than to offer the King Poyson to drink; telling Him that it is a Cordial is a passing of His death: the Poyson was repelled, there was an Antidote within; the Malice of the giver beyond expression. The perswading of Foreigners to invade the Kingdom, hold no proportion with this Machination of War; against the Law or Kingdom, is against the King, they cannot be severed.

My Lords, If no actual War within the Statute, if the Counselling of War, if neither of these single Acts be Treason within the Statute, The Commons, in the next place, have taken it into consideration, what the addition of his other Words, Counsels, and Actions do operate in the Case, and have conceived, that with this Addition, all being put together, that he is brought within the Statute of 25 E. 3.

The words of the Statute are, *If any Man shall Compass, or Imagine the death of the King*; the words are not, *If any Man shall plot, or Counsel the Death of the King*; No, my Lords, they go further than to such things as are intended immediately, directly, and determinatively against the Life and Person of the King, they are of a larger extent; to compass, is to do by Circuit, to Consult or Practice another thing directly, which being done, may necessarily produce this effect.

However it be in the other Treasons within this Statute, yet in this, by the very words, there is room left for constructions, for necessary inferences and consequences.

What hath been the Judgment and Practice of former times, concerning these words, of compassing the Kings Death, will appear to your Lordships, by some Cases of Attainders upon these words.

One Owen, in K. James His time, in the 13th year of His Reign, at Sandwich in Kent, spake these words, That K. James being Excommunicated by the Pope, may be killed by any Man, which killing is no Murther: Being asked by those he spake to, how he durst maintain so Bloody an Assertion? Answered, That the matter was not so heinous as was supposed; for, the King, who is the Lesser, is concluded by the Pope, who is the Greater; and, as a Malefactor, being Condemned before a Temporal Judge, may be delivered over to be Executed; So the King, standing Convicted by the Popes Sentence of Excommunication, may justly be slaughtered without fault; for, the Killing of the King, is the Execution of the Popes Supream Sentence, as the other is the Execution of the Law. For this, Judgment of High Treason was given against him, and Execution done.

Owen's Case
of Sandwich in
Kent.

My Lords, there is no clear intent appearing, that Owen desired the thing should be done, onely Arguments that it might be done, this is a
Compassing

Compassing, there is a clear Endeavour to corrupt the Judgment, to take off the Bonds of Conscience, the greatest security of the Kings Life, God forbid, saith one of better Judgement then he, that I should stretch out my hand against the Lords Anointed: No, saith he, the Lord doth not forbid it, you may, for these Reasons, lawfully kill the King.

He that denies the Title to the Crown, and plots the means of setting it upon anothers head, may do this without any direct, or immediate desiring the death of Him that wears it; yet this is Treason, as was adjudged in the 10th of *Hen. 7.* in these of *Burton*, and in the Duke of *Norfolkes* Case, 13 *Elix.*

This is a compassing of His Death; for there can no more be two Kings in one Kingdom, then two Suns in the Firmament: he that conceives a Title, counts it worth venturing for, though it cost him his life: he that is in possession thinks it as well worth the keeping. *John Sparhawk*, in King *Henry* the Fourth's time, meeting too men upon the way, amongst other talk, said, That the King was not rightful King, but the Earl of *March*; and that the Pope would grant Indulgencies to all, that could assist the Earles Title, and that within half a year there would be no Liveries nor Cognizances of the King; that the King had not kept promise with the People, but had laid Taxes upon them.

In *Easter-Terme*, in the third year of *Henry* the Fourth, in the Kings Bench, *Rot. 12.* this adjudged Treason, this denying the Title with Motives, though not impliedly of Action against it, adjudged Treason; this is a compassing the Kings death.

How this was a compassing of the Kings Death, is declared in the Reasons of the Judgment; that the words were spoken with an intent, to withdraw the affections of the People from the King, and to excite them against him, that in the end they might rise up against him *in mortem & destructionem* of the King.

My Lords, in this Judgment, and others, which I shall cite to your Lordships, it appears, that it is a compassing the Kings death by Words, to endeavour to draw the Peoples hearts from the King, to set discord between the King and them, whereby the People should leave the King, should rise up against Him, to the death and destruction of the King.

The Cases that I shall cite, prove not onely that it is Treason, but what is sufficient Evidence to make this good.

Upon a Commission held the 18th year of *Ed. 4.* in *Kent*, before the Marquess of *Dorset*, and others, an Indictment was preferred against *John Awater*, of High Treason, in the Forme before-mentioned, for Words, which are entred in the Indictment *Sub hac forma*: That he had been servant to the Earl of *Warwick*; that though he were dead, the Earl of *Oxford* was alive, and should have the Government of part of that Country; That *Edward*, whom you call King of *England*, was a false Man, and had, by Art and Subtilty, slain the Earl of *Warwick*, and the Duke of *Clare* his Brother, without any cause, who before had been both of them attainted of High Treason.

My Lords, This Indictment was Returned into the Kings Bench in *Trinity-Terme*, in the Eighteenth year of *Edward* the Fourth; and, in *Easter-Terme*, the Two and twentieth of *Edward* the Fourth, he was outlawed, by the stay of the outlawry, so long as it seemes the Judges had well advised before, whether it were Treason or not.

At the same Session *Thomas Heber* was Indicted of Treason for these words, That the last Parliament was the most simple and insufficient Parliament

liament that ever had been in *England*; That the King was gone to live in *Kent*, because that for the present he had not the Love of the Citizens of *London*, nor should he have it for the future: That if the Bishop of *Bath* and *Wells* were dead, the Archbishop of *Canterbury* being Cardinal of *England*, would immediately lose his head.

This Indictment was returned into the Kings Bench in *Trinity-Terme*, in the 18th year of *Edward* the 4th: afterwards there came a Privy-Seal to the Judge to respite the Proceedings, which (as it should seem) was to the intent the Judges might advise of the Case, for afterwards he is outlawed of High-Treason upon this Indictment.

These words are thought sufficient evidence, to prove these several Indictments, that they were spoken to withdraw the Peoples Affections from the King, to excite them against Him, to cause Risings against Him by the People, *in mortem & destructionem* of the King.

Your Lordships are pleased to consider, That in all these Cases, the Treason was for words onely, words by private persons, and in a more private manner, but once spoken, and no more, onely amongst the People, to excite them against the King.

My Lords, here are Words, Counsels, more then Words and Actions too, not onely to disaffect the people to the King, but the King likewise towards the People; not once, but often; not in Private, but in places most Publick; not by a Private Person, but by a Counsellor of State, a Lord Lieutenant, a Lord-President, a Lord-Deputy of *Ireland*.

1. To His Majesty, that the Parliament had denied to supply Him: a Slander upon all the Commons of *England*, in their Affections to the King and Kingdom, in refusing to yield timely supply for the Necessities of the King and Kingdom.

2. From thence, that the King was loose, and absolved from Rules of Government, and was to do every thing, that Power would admit. My Lords, more cannot be said, they cannot be aggravated; whatever I should say would be in Diminution.

3. Thence you have an Army in *Ireland*, you may employ to reduce this Kingdom.

To Counsel a King, not to Love His People, is very Unnatural, it goes higher to hate them, to Malice them in his heart, the highest expressions of Malice, to destroy them by War. These Coales they were cast upon His Majesty, they were blown, they could not kindle in that Breast.

Thence, my Lords, having done the utmost to the King, he goes to the people. At *York*, the Country being met together for Justice, at the Open Assises upon the Bench, he tells them, speaking of the Justices of the Peace, that they were all for Law, nothing but Law, but they should find, that the Kings Little Finger, should be heavier then the Loynes of the Law, as they shall find. My Lords, Who speaks this to the people, a Privy-Counsellor? this must be either to traduce His Majesty to the people, as spoken from Him, or from himself, who was Lord-Lieutenant of the County, and President, intrusted with the Forces and Justice of those parts, that he would Employ both this way. Add, my Lords, to His

Words

Words there, the Exercising of an Arbitrary and Vast Jurisdiction, before he had so much as Instructions, or Colour of Warrant.

Thence we carry him into *Ireland*; there he Represented, by his place, the Sacred Person of His Majesty.

First. There at *Dublin*, the Principal City of that Kingdom, whither the Subjects of that Country came for Justice in an Assembly of Peers, and others of greatest Rank, upon occasion of a Speech of the Recorder of that City, touching their Franchises and Regal Rights; he tells them, That *Ireland* was a Conquered Nation, and that the King might do with them what he pleased.

Secondly, Not long after, in the Parliament 10 Car. in the Chair of State, in full Parliament again, That they were a Conquer'd Nation; and that they were to expect Laws as from a Conqueror, before the King might do with them what He would, now they were to expect it that he would put this Power of a Conqueror in Execution:— The Circumstances are very Considerable; in full Parliament; from himself in *Cathedra*, to the Representative Body of the whole Kingdom.

The Occasion adds much, when they desir'd the Benefit of the Laws, and that their Causes and Suites might be determined according to Law, and not by himself, at his Will and Pleasure, upon Paper Petitions.

Thirdly, Upon like occasion, of Pressing the Laws and Statutes, that he would make an Act of Council-Board in that Kingdom, as Binding as an Act of Parliament.

Fourthly, He made his Words good by his Actions, Assumed and Exercised a Boundless and Lawless Jurisdiction, over the Lives, Persons and Estates of His Majesties Subjects, procured Judgment of Death against a Peer of that Realm; Commanded another to be Hanged, this was accordingly Executed, both in times of High Peace, without any Process or Colour of Law.

Fifthly, By Force, of a long time, he Seized the Yarn and Flax of the Subjects, to the Starving and undoing of many thousands; besides the Tobacco business, and many Monopolies and Unlawful Taxes; forced a New Oath, not to dispute His Majesties Royal Commands; determined Mens Estates at his own Will and Pleasure, upon Paper-Petitions to himself; forced Obedience to these, not only by Fines and Imprisonment, but likewise by the Army; sessed Soldiers upon the Refusers in an Hostile manner.

Sixthly, Was an Incendiary of the War between the two Kingdomes of *England* and *Scotland*.

My Lords, We shall leave it to your Lordships Judgments, whether these Words, Counsels, and Actions, would not have been a sufficient Evidence, to have Proved an Indictment drawn up against him, as those before mentioned, and many others are? That they were spoken and done to the Intent, to draw the Kings heart from the People, and the Affections of the People from the King; that they might leave the King, and afterwards rise up against him, to the destruction of the King; If so, here is a Compassing of the Kings Death, within the Words of the Statute of

25th year of *Edward* the Third, and that Warranted by many former Judgments.

My Lords, I have now done with the Three Treasons within the Statute of the Twenty fifth of *Edw.* 3^d. I proceed unto the Fourth, upon the Statute of the Eighteenth year of *Henry* the Sixth, Chapter the third, in *Ireland*, and I shall make bold to read the words to your Lordships.

“That no Lord, nor any other, of what condition soever he be, shall bring, or lead Hoblers, Kernes, or Hooded Men, nor any other People, nor Horses, to lie on Horseback, or on Foot, upon the Kings Subjects, without their good wills and consent, but upon their own costs, and without hurt doing to the Commons; and if any so do, he shall be adjudged as a Traytor.

1. The Argument that hath been made concerning the person, that it extends not to the King, and therefore not to him, weighs nothing with your Lordships, *Rex non habet in Regno parem*; from the greatness of his Office, to argue himself into the same impossibility with His Sacred Majesty, of being incapable of High-Treason, it's an Offence; no Treason; The words in the Statute, *No Lord, nor any other, of what condition soever he be*, include every Subject.

In *Trinity Terme*, in the Three and thirtieth year of *Henry* the Eighth, in the Kings-Bench, *Leonard* Lord *Gray*, having immediately before been Lord Deputy of *Ireland*, is Attainted of High-Treason, and Judgment given against him, for letting diverse Rebels out of the Castle of *Dublin*, and discharging Irish Hostages and Pledges, that had been given for securing the Peace; for not punishing one that said, That the King was an Heretique: I have read the whole Record, there's not one thing laid to his Charge, but was done by him as Lord Lieutenant; He had the same Plea with my Lord of *Strafford*; That these things were no adhering to the Kings Enemies, but were done for Reasons of State, that he was not within those words of the Statute of the 25 of *Edw.* 3. himself being Lord Lieutenant there.

Object. It hath been said, That the Soldiers sessed upon the Subjects by him, were not such persons as are intended by that Statute, *Hoblers*, *Kernes*, and *Hooded Men*, those Rascally people.

Ans. My Lords, they were the names given to the Soldiery of those times, *Hoblers*, *Horsemen*; the other the Foot. But the words of the Statute go further, Nor any other People, neither Horse nor Foot. His Lordship sessed upon them both Horse and Foot.

Object. The Statute extends onely to those, that lead or bring; *Savil* led them; my Lord onely gave the Warrant.

Ans. To this I shall onely say thus, *Plus peccat author, quam Actor*, by the rule of the Law *Agentes & consentientes pari pleuntur pena*; if consent, much more a Command to do it, makes the Commander a Traytor; If there be any Treason within this Statute, my Lord of *Strafford* is Guilty.

It hath been therefore said, That this Statute, like *Goliath's* Sword, hath

O o o o

been

been wrapt up in a Cloath, and laid behind the door, that it hath never been put in execution.

My Lords, if the Clarke of the Crown in *Ireland*, had certified your Lordships upon search of the Judgments of Attainders in *Ireland*, he could not find that any man had been attainted upon this Statute, your Lordships had had some ground to believe it; Yet its onely my Lord of *Straffords* Affirmation; besides, your Lordships know, that an Act of Parliament binds until it be repealed.

It hath been therefore said; That this Statute is repealed by the Statute of the 8 *Ed.* 4. *Cap.* 1. and of the 10th of *Hen.* 7. *Cap.* 22. because by these two Statutes, the English Statutes are brought into *Ireland*.

The Argument (if I mistook it not) stood thus; That the Statute of the First of *Henry* the 4th, the 10th *Chap.* saith, That in no time to come, Treason shall be adjudged otherwise, then it was ordained by the Statute of the 25 *E.* 3. that the reason mentioned in the Eighteenth year of *Henry* the Sixth, in the *Irish* Statute, is not contained in the 25 *Edm.* 3. and therefore contrary to the Statute of the 1 *Hen.* 4. it must needs be void.

If this were Law, then all the Statutes that made any new Treason after the First of *Henry* 4th, were void in the very Fabrick, and at the time when they were made; hence likewise it would follow, that the Parliament now, upon what occasion soever, hath no Power to make any thing Treason, not declared to be so in the Statute 25 *Edm.* 3. This your Lordships easily see, would make much for the Lord of *Straffords* advantage, but why the Law should be so, your Lordships have onely as yet heard an Affirmation of it; no reason.

But, some touch was given, that the Statute of the tenth year of *Henry* the Seventh, in words, makes all the *Irish* Statutes void, which are contrary to the English. The Answer to this is a denial that there are any such words in the Statute. The Statute declares, that the English Statutes shall be effectual, and confirmed in *Ireland*, and that all the Statutes made before time to the contrary, shall be revoked.

This repeals only the *Irish* Statutes of the tenth year of *Henry* the Fourth, and the Nine and twentieth year of *Henry* the Sixth, which say, that the English Statutes shall not be in force in *Ireland*, unless particularly received in Parliament, it makes all the *Irish* Statutes void, which say, that the English Statutes shall not be in force there.

It is usual when a Statute sayes, that such a thing shall be done, or not done, to add further, that all Statutes to the contrary shall be void.

No likelihood that this Statute intended to take away any Statute of Treason, but when in the Chapter next before this, Murder there is made Treason, as if done upon the Kings Person.

That this Statute of the Eighteenth year of *Henry* the Sixth remains on foot, and not repealed either by the Statute of the Eighth year of *Edward* the Fourth, or this of the Tenth year of *Henry* the Seventh, appears expressly by two several Acts of Parliament, made at the same Parliament of the tenth year of *Henry* the Seventh.

By an Act of Parliament of *Henry* the Sixth's time in *Ireland*, it was made Treason for any Man whatsoever, to procure a Privy-Seal, or any other Command whatsoever, for apprehending any Person in *Ireland* for Treason done without that Kingdom, and to put any such command in Execution, divers had been attainted of Treason for executing such Commands: There is a Treason, so made, by Act of Parliament, in *Henry* the Sixth's time. In the third Chapter of this Parliament of the tenth of *Henry*

Henry the Seventh, an Act is passed for no other end, then to repeal this Statute of Henry the Sixth of Treason.

If this Statute of Henry the Sixth of Treason had been formerly repealed by the Statute of 8 E. 4. or then by the two and twentieth Chapter of this Parliament of the 10th of Henry the Seventh, by bringing in the English Statutes, the Law-makers were much mistaken now to make a particuar Act of Parliament to repeal it, it being likewise so unreasonable an Act as it was.

In the Eighth Chapter of this Parliament of the 10th of Henry the Seventh, it is Enacted, that the Statutes of *Kilkenny*, and all other Statutes made in *Ireland* (two onely excepted, whereof this of the Eighteenth of Henry the Sixth is none) for the Common-Weal, shall be enquired of, and executed: My Lord of *Strafford* saith, that the bringing in of the English Statute hath repealed this Statute; the Act of Parliament made the same time, saith no; it saith, that all the Irish Statutes, excepting two, whereof this is none, shall still be in force.

Object. Oh, but however it was in the 10 H. 7. yet it appeares by Judgment in Parliament afterwards, that this Statute of 18 H. 6. is repealed, and that is by the Parliament of the 11th year of Queen *Elizabeth*, the 7th Chapter, that by this Parliament it is Enacted, That if any Man, without Licence from the Lord Deputy, lay any Soldiers upon the Kings Subjects, if he be a Peer of the Realm, he shall forfeit One hundred pounds, if under the degree of a Peer, One hundred Markes.

This Statute, as is alleadged, declares the Penalty of laying Soldiers on the Subjects to be onely One hundred pounds, and therefore its not Treason.

Answer. My Lords, if the Offence for which this Penalty of One hundred pounds is laid upon the Offenders, be for laying Soldiers, or leading them to do any act Offensive or Invasive upon the Kings People, the Argument hath some force; but that the Offence is not for laying Soldiers upon the true Subjects, that this is not the Offence intended in the Statute, will appear to your Lordships *Ex absurdo*, from the words of it.

The Words are,

“That if any Man shall assemble the People of the County together, to conclude of Peace or War, or shall carry those people to do any Acts Offensive or Invasive, then he shall forfeit One hundred pounds.

If concluding of War, and carrying the people to Acts Invasive, be against the Kings Subjects, this is High-Treason, which are the words of the Statute of 25 E. 3. for if any Subject shall assemble the people, and conclude a War, and accordingly shall lead them to invade the Subject, this is a levying of War within the words of the Statute; and then the Statutes of the 25 E. 3. 1 H. 4. 1 of Q. *Mary*, which the Earl of *Strafford*, in his Answers, desires to be tryed by, are as well repealed, in this point, as the Statute of the 18th of Henry the Sixth, he might then, without fear of Treason, have done what he pleased with the Irish Army; for all the Statutes of levying of War by this Statute of 11 *Eliz.* were taken out of his way.

In *Ireland* a Subject gathers Forces, concludes a War against the Kings people, actually invades them, bloodshed, burning of houses, depredations ensue; two of those, that is, Murder, and Burning of Houses, are Treason; and there the other Felony by the construction the punishment of Treason, and Felony is turned onely into a fine of One hundred pounds; from loss of Life, Lands, and all his Goods, onely to loss of part of his Goods.

The Third Absurdity, a War is concluded, three several Inrodes are made upon the Subject; in the first a hundred pounds damage; in the second, five thousand pounds damage; in the third, ten thousand pounds damage, is done to the Subjects; the penalty for the last inroade is no more then for the first, onely one hundred pounds. This Statute, by this Construction, tells any man, how to get his living without long labour.

Two parts of the hundred pounds is given to the King, a third part unto the Informer; Here's no damage to the Subject, that is robbed and destroyed.

My Lords, The Statute will free it self and the makers from those Absurdities.

The meaning of the Statute is, That if any Captain shall, of his own head, conclude of Peace or War against the Kings Enemies, or Rebels, or shall, upon his own head, invade them without Warrant from the King, or Lord Deputy of *Ireland*, that then he shall forfeit a Hundred pounds.

The Offence is not for laying of Soldiers upon the Kings people, but making War against the Irish Rebels without Warrant; the Offence is not in the Matter, but in the Manner, for doing a thing lawful, but without Mission.

I. *This will appear by the general Scope of the Statute, all the parts being put together.*

II. *By particular Clauses in the Statute.*

III. *By the Condition of that Kingdom, at the time of the making of that Statute.*

For the *First*, The Preamble recites, that in time of Declination of Justice, under pretext of defending the Country and themselves, diverse Great Men arrogated to themselves Regal Authority, under the names of Captains; that they acquired to themselves that Government, which belonged to the Crown; for preventing of this, It's Enacted, 'That no man dwelling within the Shire Grounds, shall thenceforth assume, or take to himself the Authority or name of a Captain, within these Shire-Grounds, without Letters-Patents from the Crown, nor shall, under colour of his Captainship, make any demand of the people of any Exaction, nor as a Captain, assemble the people of the Shire-Grounds; nor as a Captain shall lead those people to do any acts Offensive or Invasive, without Warrant under the Great Seal of *England*, or of the Lord Deputy, upon penalty, that if he do any thing contrary to that Act, that then the Offender shall forfeit a Hundred pounds.

My Lords, The Rebels had been out; the Courts of Justice scarce sate; for defence of the Country divers usurped the place of Captains, concluded of War against the Rebels, and invaded them without Warrant: Invading the Rebels without Authority, is a crime.

This

This appears further by particular clauses in the Statute, none shall exercise any Captainship within the Shire-grounds, nor assemble the men of the Shire-grounds, to conclude War, or lead them to any Invasion.

That that had antiently been so continued to this time, that is the Irish, and the English Pale, they within the Shire-grounds were within the English Pale; and *ad fidem & legem Anglie*. The Irish without the Pale were enemies always, either in open act of Hostility, or upon Leagues and Hostages given for securing the Peace; and therefore as here in England we had our Marches upon the frontiers in Scotland and Wales, so were there Marches between the Irish and English Pale, where the Inhabitants held their Lands by this tenure, to defend the Countrey against the Irish, as appears in the close Roll of the Tower, in the 20th year of Edw. 3. *membrana 15.* on the backside, and in an Irish Parliament, held the 42 year of Edw. 3. it's declared, That the English Pale was almost destroyed by the Irish enemies, and that there was no way to prevent the danger, but only, that the Owners reside upon their Lands for defence, and that absence should be a forfeiture. This Act of Parliament in a great Council here was affirmed, as appears in the close Roll, the 22 year of Edw. 3. *Membrana 20 dorso.*

Afterwards, as appears in the Statute of 28 Hen. 6th. in Ireland, this Hostility continued between the English Marches and the Irish Enemies, who by reason there was no difference between the English Marches and them in their apparel, did daily (not being known to the English) destroy the English within the Pale: Therefore it is enacted, that every English-man shall have the hair of his upper Lip for distinction sake. This hostility continued until the 10th year of Henry the 7th, as appears by the Statute of 10 H. 7th. and 17th. so successively downwards, till the making of this very Statute of 11 Eliz. as appears fully in the 9th Chap.

Nay, immediately before, and at the time of the making of this Statute, there was not only enmity between those of the Shire-ground, that is, the English and Irish Pale, but open War, and acts of hostility, as appears by History of no less Authority, than that Statute it self; for in the first Chapter of that Statute, is the Attainder of *Shane O'neale*, who had made open War, was slain in open War; it's there declared, That he had gotten by force, all the North of Ireland, for an hundred and twenty miles in length, and about a hundred in breadth; that he had mastered divers places within the English Pale; when the flame of this War by his death, immediately before this Statute was spent, yet the Firebrands were not all quenched, for the Rebellion continued by *John Fitz-Gerard*, called the *White Knight*, and *Thomas Gueverford*, this appears by the Statute of the Thirteenth year of Queen Eliz. in Ireland, but two years after this of the Eleventh year of Queen Eliz. where they are attainted of High Treason, for levying of War this Eleventh year, wherein this Statute was made.

So that my Lords, immediately before, and at the time of the making of this Statute, there being War between those of the Shire-grounds, mentioned in this Statute, and the Irish, the concluding of War, and Acts Offensive and Invasive there mentioned, can be intended against no others, but the Irish Enemies.

Again, The words of the Statute are, *No Captain shall assemble the people of the Shire-grounds, to conclude of Peace or War; Is to presume, that those of the Shire-grounds will conclude of War against themselves. Nor (with the Statute) Shall carry those of the Shire-grounds to do any Acts*

Acts Invasive; by the construction which is made on the other side, they must be carried to fight against themselves.

Lastly, The words are, That as Captain, none shall assume the Name, or Authority of a Captain; or as a Captain shall gather the people together; or as a Captain lead them; the offence is not in the matter, but in the manner; If the Acts offensive were against the Kings good Subjects, those that were under Command, were punishable, as well as the Commanders; but in respect the Soldiers knew the service to be good in it self, being against the enemies, and that it was not for them to dispute the Authority of their Commanders, the penalty of 100 *l.* is laid only upon him, That as Captain, shall assume this Power without Warrant, the People commanded, are not within this Statute.

My Lords, The Logick wherupon this Argument is framed, stands thus, because the Statute of the Eleventh year of Queen *Elizabeth*, inflicts a penalty of 100 *l.* and no more, upon any man, that as a Captain without Warrant, and upon his own head shall conclude of, or make War against the King's Enemies: Therefore the Statute of the Eighteenth year of *Henry* the 6th is repealed, which makes it Treason to lay Soldiers upon, or to levy War against the Kings good People.

But, my Lords, Observation hath been made upon other words of this Statute, that is, that without Licence of the Deputy, these things cannot be done; this shews that the Deputy, is within none of the Statutes.

My Lords, This Argument stands upon the same reason with the former, because he hath the ordering of the Army of *Ireland*, for the defence of the people, and may give Warrant to the Officers of the Army, upon eminent occasions of Invasion, to resist or prosecute the Enemy, because of the danger that else might ensue forthwith, by staying for a Warrant from His Majesty out of *England*.

My Lords, The Statute of the 10th year of *Henry* the 7th. chap. 17. touched upon for this purpose, clears the business in both points; for there is declared, That none ought to make War upon the Irish Rebels, and Enemies, without Warrant from the Lieutenant, the forfeiture 100 *l.* as here the Statute is the same with this, and might as well have been cited, for repealing the Statute of the 18th year of *Henry* the 6th. as this of the 11th year of Queen *Elizabeth*. But if this had been insisted upon, it would have expounded the other two clear against him.

Object. *My Lords*, it hath been further said, although the Statute be in force, and there be a Treason within it, yet the Parliament hath no Jurisdiction, the Treasons are committed in *Ireland*, therefore not triable here.

Answ. *My Lords*, Sir *John Parrot*, his Predecessor, 24 *Edw.* was tryed in the *Kings Bench* for Treason done in *Ireland*, when he was Deputy; and *Oruche* in the 33 year of Queen *Elizabeth*, adjudged here for Treason done in *Ireland*.

Object. But it will be said, these Tryals were after the Statute of the 34th year of *Henry* the 8th. which enacts, that Treasons beyond Sea may be tryed in *England*.

Answ.

Answ. My Lords, his Predecessor my Lord Gray was tryed, and adjudged here in the *Kings-Bench*; that was in *Trinity Term*, in the 33 year of *Henry the 8th.* this was before the making of that Statute.

Object. To this again will we say, That it was for Treason by the Laws and Statutes of *England*; that this is not for any thing that's Treason by the Law of *England*, but an Irish Statute.

So that the question is only, Whether your Lordships here in Parliament, have cognizance of an offence, made Treason by an Irish Statute, in the ordinary way of Judicature, without Bill? for so is the present question.

For the clearing of this, I shall propound two things to your Lordships consideration.

Whether the Rule for expounding the Irish Statute and Customs, be one and the same in *England* as in *Ireland*?

That being admitted, whether the Parliament in *England* have cognizance or jurisdiction of things there done, in respect of the place, because the Kings Writ runs not there?

For the First, in respect of the place, the Parliament here hath cognizance there. And Secondly, If the Rules for expounding the Irish Statutes and Customs, be the same here as there, this exception (as I humbly conceive) must fall away.

In *England* there is the Common-Law, the Statutes, the Acts of Parliament, and Customs peculiar to certain places, differing from the Common-Law; If any question arise concerning either a Custom or an Act of Parliament, the Common-Law of *England*, the First, the Primitive and the General Law, that's the Rule and Expositor of them, and of their several extents; it is so here, it is so in *Ireland*, the Common-Law of *England*, is the Common-Law of *Ireland* likewise; the same here and there in all the parts of it.

It was introduced into *Ireland* by King *John*, and afterwards by King *Henry 3.* by Act of Parliament held in *England*, as appears by the Patent-Rolls of the 30th year of King *Henry 3.* the first *Membrana*, the words are, *Quia pro Communi Utilitate terræ Hiberniæ & unitate terrarum Regis, Rex vult, & de Communi Concilio Regis Provisum est, quod omnes Leges & Consuetudines quæ in Regno Angliæ tenentur, in Hibernia teneantur, & eadem terra eisdem legibus subjaceat, & per easdem Regatur, sicut Dominus Johannes Rex cum ultimò esset in Hibernia statuit & fieri mandavit, quia, &c. Rex vult quòd omnia brevìa de Communi Jure quæ currunt in Anglià, similiter currant in Hibernia, sub novo sigillo Regis mandatum est Archiepiscopis, &c. quod pro pace & tranquillitate ejusdem terræ, per easdem leges eos regi & deduci permittant, & eas in omnibus sequantur in cujus, &c. Teste Rege apud Woodstock, Decimonono die septembris.*

Here is an union of both Kingdoms, and that by Act of Parliament, and the same Laws to be used here as there, *in omnibus.*

My Lords, That nothing might be left here for an exception, that is, That in Treasons, Felonies, and other capital offences concerning Life, the Irish Laws are not the same as here, therefore it is enacted by a Parliament held in *England*, in the 14th year of *Edw. 2.* (it is not in print neither, but in the Parliament Book) that the Laws concerning Life and Member shall be the same in *Ireland*, as in *England.*

And

And that no exception might yet remain, in a Parliament held in *England*. The 5th year of *Edw. 3.*, it is Enacted. *Quod una & eadem Lex fiat tam Hibernicis quam Anglicis.*

This Act is enrolled in the *Patent Rolls* of the 5th year of *Edw. 3.* Parl. membr. 25.

The Irish therefore receiving their Laws from hence, they send their Students at Law to the Inns of Court in *England*, where they receive their Degree, and of them, and of the Common-Lawyers of this Kingdom, are the Judges made.

The Petitions have been many from *Ireland*, to send from hence some Judges, more learned in the Laws, than those they had there.

It hath been frequent in cases of difficulty there, to send sometimes to the Parliament, sometimes to the King, by advice from the Judges here, to send them resolutions of their doubts. Amongst many, I'll cite your Lordships only one, because it is in a case of Treason upon an Irish Statute, and therefore full to this point.

By a Statute there made the fifth year of *Edw. 4.* there is a provision made for such as upon suggestions are committed to prison for Treason, that the party committed, if he can procure 24 Compurgators, shall be bailed and let out of prison.

Two Citizens of *Dublin*, were by a Grand Jury presented to have committed Treason, they desired benefit of this Statute, that they might be let out of prison, upon tender of their Compurgators: The words of the Statute of the 5th year of *Edw. 4th.* in *Ireland* being obscure, the Judges there being not satisfied what to do, sent the case over to the Queen, desired the opinion of the Judges here, which was done accordingly. The Judges here sent over their opinion, which I have out of the Book of Justice *Anderson*, one of the Judges consulted withal. The Judges delivered their opinion upon an Irish Statute, in case of Treason.

If it be objected, That in this Case, the Judges here did not judge upon the party; their opinions were only *ad informandam Conscientiam*, of the Judges in *Ireland*, that the Judgement belonged to the Judges there.

My Lords (with submission) this and the other Authorities, prove, that for which they were cited, that is, that no absurdity, no failure of Justice would ensue, if this great Judicatory should judge of Treason, so made by an Irish Statute.

The Common-Law rules of judging upon an Irish Statute; the Pleas of the Crown for things of life and death, are the same here and there, this is all that yet hath been offered.

For the Second point, That *England* hath no power of Judicature, for things done in *Ireland*.

My Lords, the constant practice of all ages, proves the contrary.

Writs of Error in Pleas of the Crown, as well as in Civil Causes, have in all Kings Reigns been brought here, even in the inferior Courts of *Westminster-Hall* upon Judgment given in the Courts of *Ireland*, the practice is so frequent, and so well known, as that I shall cite none of them to your Lordships, no president will, I believe, be produced to your Lordships, that ever the Case was remanded back again into *Ireland*, because the question arose upon an Irish Statute, or Custom.

Object. But it will be said, that Writs of Error, are only upon failure of justice in *Ireland*, and that suits cannot originally be commenced here for things done in *Ireland*, because the Kings Writ runs not in *Ireland*.

Answer.

Answ. This might be a good Plea in the *Kings-Bench*, and inferior Courts at *Westminster-Hall*; the question is, Whether it be so in Parliament? The Kings Writ runs not within the County-Palatine of *Chester* and *Durham*, nor within the Five Ports; neither did it in *Wales*, before the Union of *Henry* the 8th's time, after the Laws of *England* were brought into *Wales*, in King *Edw.* the 1. time, Suits were not originally commenced at *Westminster-Hall* for things done in them; yet this never excluded the Parliament-suits; for Life, Lands, and Goods within these jurisdictions, are determinable in Parliament, as well as in any other parts of the Realm.

Ireland, as appears by the Statute of the Thirtieth year of *Henry* 3. before-mentioned, is united to the Crown of *England*.

By the Statute of the Eight and twentieth year of *Hen.* 6th. in *Ireland*, it is declared in these words, That *Ireland* is the proper Dominion of *England*, and united to the Crown of *England*, which Crown of *England* is of it self, and by it self, wholly and entirely endowed with all Power and Authority sufficient to yield to the Subjects of the same full and plenary remedy, in all Debates and Suits whatsoever.

By the Statute of the Three and twentieth year of *Henry* the 8th, the first Chapter, when the Kings of *England* first assumed the Title of King of *Ireland*, it is there Enacted, that *Ireland* still is to be held as a Crown annexed and united to the Crown of *England*.

So that by the same reason, from this that the Kings Writs run not in *Ireland*, it might as well be held, that the Parliament cannot originally hold Plea of things done within the County-Palatine of *Chester* and *Durham*, nor within the Five Ports and *Wales*; *Ireland*, is a part of the Realm of *England*, as appears by those Statutes, as well as any of them.

This is made good by constant practice in all the Parliament Rolls, from the first to the last; there are Receivers, and Tryers of Petitions appointed for *Ireland*; for the Irish to come so far with their Petitions for Justice, and the Parliament not to have cognizance, when from time to time they had in the beginning of the Parliament, appointed Receivers and Tryers of them, is a thing not to be presumed.

An Appeal in *Ireland*, brought by *William* Lord *Vesey*, against *John* *Fitz-Thomas*, for Treasonable words there spoken, before any Judgment given in Case there, was removed into the Parliament in *England*, and there the Defendant acquitted, as appears in the Parliament Pleas of the Two and twentieth year of *Edw.* 1.

The Suits for Lands, Offices, and Goods originally begun here are many, and if question grew upon matter in fact, a Jury usually ordered to try it, and the Verdict returned into the Parliament; as in the Case of one *Ballyben* in the Parliament of the Five and thirtieth year of *Edward* the 1. If a doubt arose upon a matter tryable by Record, a Writ went to the Officers, in whose custody the Record remained, to certify the Record, as was in the Case of *Robert Bagott* the same Parliament, of the Five and thirtieth year of *Edward* the 1. where the Writ went to the Treasurer, and Barons of the *Exchequer*.

Sometimes they gave Judgement here in Parliament, and commanded the Judges there in *Ireland* to do execution, as in the great Case of *Partition*, between the Copartners of the Earl Marshal in the Parliament of the Three and thirtieth of *Edward* the 1. where the Writ was awarded to the Treasurer of *Ireland*.

My Lords, The Laws of *Ireland* were introduced by the Parliament of *England*, as appears by Three Acts of the Parliament before cited.

It is of higher Jurisdiction *Dare Leges*, then to judge by them.

The Parliaments of *England* do bind in *Ireland*, if *Ireland* be particularly mentioned, as is resolved in the Book-Case of the First year of *Henry* the Seventh. *Cook's* Seventh Report, *Calvin's* Case; and by the Judges in *Trinity-Term*, in the Three and thirtieth year of *Queen Elizabeth*. The Statute of the Eighth year of *Edward* the 4th, the first Chapter in *Ireland* recites, That it was doubted amongst the Judges, whether all the English Statutes, though not naming *Ireland*, were in force there? if named, no doubt.

From King *Henry* the 3. his time downwards, to the Eighth year of *Queen Elizabeth* (by which Statute it is made Felony to carry Sheep from *Ireland* beyond Seas) in almost all these Kings Reigns, there be Statutes made concerning *Ireland*. The exercising of the Legislative Power there, over their Lives and Estates, is higher than of the Judicial in question: Until the 29th year of *Edward* the 3. erroneous Judgements given in *Ireland*, were determinable no where but in *England*; no, not in the Parliament of *Ireland*, as it appears in the close Rolls in the *Tower*, in the 29th year of *Edw.* the 3. Memb. 12. Power to examine and reverse erroneous Judgements in the Parliaments of *Ireland* is granted; from hence, Writs of Error lye in the Parliament here upon erroneous Judgements, after that time, given in the Parliaments of *Ireland*, as appears in the Parliament Rolls, of the Eighth year of *Henry* the 6th. No. 70. in the Case of the Prior of *Lenthban*. It is true, the Case is not determined there, for it's the last thing that came into the Parliament, and could not be determined for want of time, but no exception at all is taken to the Jurisdiction.

The Acts of Parliament made in *Ireland*, have been confirmed in the Parliaments of *England*, as appears by the close Rolls in the *Tower*, in the Two and fortieth year of *Edw.* the 3. Memb. 20. *Dorso*: where the Parliament in *Ireland*, for the preservation of the Countrey from Irish, who had almost destroyed it, made an Act, That all the Land-Owners, that were English, should reside upon their Lands, or else they were to be forfeited, this was here confirmed.

In the Parliament of the Fourth year of *Henry* the 5th. Chap. 6. Acts of Parliament in *Ireland* are confirmed, and some priviledges of the Peers in the Parliaments there are regulated.

Power to repeal Irish Statutes, Power to confirm them, cannot be by the Parliament here, if it hath not cognizance of their Parliaments; unless it be said, that the Parliament may do, it knows not what.

Garnsey and *Jersey* are under the Kings subjection, but are not parcels of the Crown of *England*, but of the Duchy of *Normandy*, they are not governed by the Laws of *England*, as *Ireland* is, and yet Parliaments in *England* have usually held Plea of, and determined all Causes concerning Lands or Goods. In the Parliament, in the 33 *Edw.* 1. there be *Placita de Insula Jersey*. And so in the Parliament, 14 *Edw.* 2. and so for *Normandy* and *Gascoigne*, and always as long as any part of *France* was in subjection to the Crown of *England*, there were at the beginning of the Parliaments, Receivers and Tryers of Petitions, for those parts appointed.

I believe your Lordships will have no Case shewed of any Plea, to the jurisdiction of the Parliaments of *England*, in any things done in any parts wheresoever in subjection to the Crown of *England*.

The last thing I shall offer to your Lordships is, the Case of 19 *Eliz.* in my Lord *Dyer*, 306. and Judge *Crompton's* Book, of the jurisdiction of Courts

fol.

fol. 23. The opinion of both these Books is, That an Irish Peer is not Tryable here, it's true, a Scotch or French Nobleman is tryable here, as a common person; the Law takes no notice of their Nobility, because those Countreys are not governed by the Laws of England; but Ireland being governed by the same Laws, the Peers there are Tryable according to the Law of England only, *per pares*.

By the same reason, the Earl of Strafford, not being a Peer of Ireland, is not tryable by the Peers of Ireland; so that if he be not tryable here, he is tryable no where.

My Lords, In case there be a Treason and a Traitor within the Statute, and that he be not tryable here for it, in the ordinary way of Judicature, if that jurisdiction fail, this by way of Bill doth not; Attainders of Treason in Parliament, are as legal, as usual by Act of Parliament, as by Judgement.

I have now done with the Statutes 25 Edw. 3. and 18 Hen. 6. My Lord of Strafford hath offended against both the Kingdoms, and is guilty of High Treason by the Laws of both.

My Lords, In the fifth place, I am come to the Treasons at the Common-Law, the endeavouring to subvert the fundamental Laws and Government of the Kingdom, and to introduce an Arbitrary and Tyrannical Government.

In this I shall not at all labour to prove, That the endeavouring by Words, Counsels and Actions, to subvert the Laws, is Treason at the Common-Law, if there be any Common-Law Treasons at all left; nothing is Treason, if this be not, to make a Kingdom no Kingdom; take the Polity and Government away, Englands but a piece of Earth, wherein so many men have their Commorancy and abode, without ranks or distinction of men, without property in any thing further than possession; no Law to punish the Murthering, or robbing one another.

That of 33 Hen. 8. of introducing the Imperial Law, sticks not with your Lordships; it was in case of an Appeal to Rome; these Appeals in Cases of Marriages, and other causes counted Ecclesiastical, had been frequent, had in most Kings Reigns been tolerated; some in times of Popery put a conscience upon them; the Statutes had limited the penalty to a *Præmunire* only, neither was that a total subversion, only an Appeal from the Ecclesiastical Court here in a single Cause, to the Court of Rome; and if Treason or not, that Case proves not a Treason may be punished as a Felony; a Felony as a Trespass, if His Majesty so please; The greater includes the less in the Case of *Præmunire*; in the Irish Reports, that which is there declared to be Treason, was proceeded upon only as a *Præmunire*.

The things most considerable in this is, Whether the Treasons at Common-Law, are taken away by the Statute of 25 Edw. 3. which is to speak against both the direct words and scope of that Statute.

In it there's this clause, *That because many other like Cases of Treason might fall out, which are not there declared; therefore it is enacted, That if any such Case come before the Judges, they shall not proceed to Judgment, till the Case be declared in Parliament, whether it ought to be adjudged Treason or not.*

These words, and the whole scope of that Statute shews, that it was not the meaning to take away any Treasons that were so before, but only to regulate the jurisdiction and manner of Tryal. Those that were single and certain Acts, as conspiring the Kings death, Levying War, Counterfeiting the Money, or Great Seal, Killing a Judge; these are left to the ordinary

ordinary Courts of Justice : The others not depending upon single Acts, but upon constructions and necessary inferences, they thought it not fit to give the inferior Courts so great a latitude here, as too dangerous to the Subject, those they restrained to the Parliament.

This Statute was the great security of the Subjects, made with such wisdom, as all the succeeding Ages have approved it ; it hath often passed through the Furnace, but like Gold, hath left little or nothing.

The Statute of the First H. 4. cap. 10. is in these words, *Whereas in the Parliament held the 21 year of Richard the 2. divers pains of Treason were ordained, insomuch that no man did know how to behave himself, to do, say, or speak : It is accorded that in no time to come, any Treason be adjudged otherwise, than it was ordained by the Statute of 25th of Edw. 3.*

It hath been said, To what end is this Statute made, if it takes not away the Common-Law Treasons remaining after the Statute of the 25th of Edw. 3 ?

There be two main things which this Statute doth ; First, it takes away for the future all the Treasons, made by any Statute since 25 Edw. 3. to the 1 H. 4. even to that time ; for in respect, that by another Act in that Parliament, the Statute of 21 Rich. 2. was repealed, it will not be denied, but that this Statute repeals more Treasons than these of the 21 R. 2. It repeals all Statute-Treasons but those in 25 Edw. 3.

Secondly, It not only takes away the Statute-Treasons, but likewise the declared Treasons in Parliament, after the 25th of Edw. 3. as to the future, after Declaration in Parliament, the inferior Courts might judge these Treasons ; for the Declaration of a Treason in Parliament after it was made, was sent to the inferior Courts, that *toties quoties* the like Case fell out, they might proceed therein, the Subject for the future, was secured against these ; so that this Statute was of great use.

But by the very words of it, I shall refer all Treasons to the provision of 25 Edw. 3. it leaves that entire, and upon the old bottom. The Statute of 1 Queen M. cap. 1. saith, That no offences made Treason by any Act of Parliament, shall thenceforth be taken or adjudged to be Treason, but only such as be declared and expressed to be Treason by the Statute of 25 Edw. 3. *Concerning Treason, or the Declaration of Treason, and no others : And further provides, That no pains of death, penalties, or forfeiture in any wise shall ensue, for committing any Treason, other than such as be in the Statute of 25 Edw. 3. ordained and provided, any Act of Parliament, or any Declaration, or matter to the contrary, in any wise notwithstanding.*

By the first of this Statute, only offences made Treason by Act of Parliament, are taken away, the Common-Law-Treasons are no ways touched, the words [*And no others*] refer still to offences made Treason by Act of Parliament ; they restrain not to the Treasons only, particularly mentioned in the Statute in the 25th Edw. 3. but leave that Statute entire to the Common-Law-Treason, as appears by the words immediately foregoing.

By the Second Part, for the peins and forfeitures of Treasons, if it intend only the punishment of Treason, or if it intend both Treason and Punishment, yet all is referred to the Provision and Ordinance of 25 Edw. 3. any Act of Parliament, or other Declaration, or thing notwithstanding.

It saith not, other then such Penalties or Treasons, as are expressed and declared in the Statute of 25 Edw. 3. that might perhaps have restrained it to those that are particularly mentioned, no, it refers all Treasons to the

the

the general Ordination and Provision of that Statute, wherein the Common Law Treasons are expressly kept on foot.

If it be Asked, What good this Statute doth, if it take not away the Common Law Treasons?

1. It takes away all the Treasons made by Act of Parliament, not only since the first of *Hen. 4.* which were many, but all before *1 Hen. 4.* even until the *25 E. 3.* by expresse words.

2. By expresse words, it takes away all declared Treasons, if any such had been in Parliament; Those for the future are likewise taken away; so that whereas it might have been doubted, whether the Statute of the *1 H. 4.* took away any Treasons, but those of the *22^d* and *23^d* years of *R. 2.* This clears it, both for Treasons made by Parliament, or declared in Parliament, even to the time of making the Statute.

This is of great use, of great security to the Subject; so that, as to what shall be Treason, and what not, the Statute of *25 E. 3.* remains entire, and so by consequence the Treasons at the Common Law.

Only, my Lords, it may be doubted, whether the manner of the Parliamentary proceedings; be not altered by the Statute of *1 H. 4. Chap. 17.* and more fully in the Parliament Roll, Number *144*, that is, whether since that Statute the Parliamentary power of Declaration of Treasons, whereby the inferiour Courts Receive Jurisdiction, be not taken away and restrained only to Bill, that so it might operate no further, then to that particular contained in the Bill, that so the Parliamentary Declarations for after-times, should be kept within the Parliament it self, and be extended no further: Since *1 H. 4.* we have not found any such Declarations made, but all Attainders of Treason have been by Bill?

If this be so, yet the Common-Law Treasons still remaining, there is one and the same ground of reason and equity since the *1 H. 4.* for passing a Bill of Treason, as was before, for declaring of it without Bill.

Herein the Legislative power is not used against my Lord of *Strafford* in the Bill, its only the jurisdiction of the Parliament.

But, my Lords, because that either through my mistaking of the true grounds and reasons of the Commons, or my not pressing them with apt arguments, and precedents of former times, or that perchance your Lordships, from some other Reasons and Authorities, more swaying with your Lordships Judgments, then these from them, may possibly be of a contrary or dubious opinion, concerning these Treasons, either upon the Statutes of *25 E. 3.* & *18 H. 6.* or at the Common-Law.

My Lords, If all these five should faile, they have therefore given me further in Command, to declare to your Lordships some of their Reasons, why they conceive that in this case, the meer Legislative Power may be exercised.

Their reasons are taken from these three grounds;

1. From the nature and quality of the Offence.
2. From the Frame and Constitution of the Parliament, wherein this Law is made.
3. From Practices and Usages of former times.

The horridness of the Offence, in endeavouring the overthrowing the Lawes and present Government, hath been fully opened to your Lordships heretofore.

The Parliament is the Representation of the whole Kingdom; wherein the King as Head, your Lordships as the most Noble, and the Commons the other Members, are knit together into one Body Politick; This dissolves the Arteries and Ligaments that hold the Body together, the Lawes; He that takes away the Lawes, takes not away the Allegiance of one Subject alone, but of the whole Kingdom.

It was made Treason by the Statute of 13 *Eliz.* for Her time, to affirm, that the Lawes of the Realm do not bind the Descent of the Crown; no Law, no Descent at all.

No Lawes, no Peerage; no Rankes or Degrees of men; the same Condition to all.

It's Treason to kill a Judge upon the Bench; this kills not *Judicem, sed Judicium*; He that borrowed *Apelles*, and gave Bond to return again *Apelles* the Painter, sent him home, after he had cut off his Right Hand; his Bond was broken; *Apelles* was sent, but not the Painter. There are Twelve Men, but no Law; there's never a Judge amongst them.

It's Felony to Imbezle any one of the Judicial Records of the Kingdom; this at once Sweeps them all away, and from all.

It's Treason to Counterfeit a Twenty shillings piece; here's a Counterfeiting of the Law; we can call neither the Counterfeit, nor True Coyn, our own.

It's Treason to Counterfeit the Great-Seal for an Acre of Land; no property hereby is left to any Land at all; nothing Treason now, either against King or Kingdom; no Law to punish it.

My Lords, If the Question were Asked at *Westminster-Hall*, Whether this were a Crime punishable in *Star-Chamber*, or in the *Kings-Bench*, by Fine, or Imprisonment? they would say it went higher: If whether Felony? they would say, that's for an Offence only against the Life, or Goods of some one or few persons; It would, I believe, be answered by the Judges, as it was by the Chief Justice *Tburning* in 21 R. 2. that though he could not Judge the Case Treason there before him, yet if he were a Peer in Parliament he would so Adjudge it.

My Lords, if it be too big for those Courts, we hope it's in the right way here.

2. The second Consideration is from the Frame and Constitution of the Parliament; the Parliament is the great Body Politick, it comprehends all, from the King to the Beggar; if so, My Lords, as the Natural, so this Body, it hath power over it self, and every one of the Members, for the preservation of the whole; It's both the Physitian and the Patient; If the Body be distempered, it hath power to open a Vein, to let out the corrupt blood for curing it self; if one Member be Poysoned or Gangred, it hath power to cut it off for the preservation of the rest.

But, my Lords, it hath often been inculcated, that Law-makers should imitate the Supreme Law-giver, who commonly warnes before he strikes. The Law was promulged before the Judgment of death for gathering the Sticks. No Law, no Transgression.

My Lords, To this rule of Law is *Frustra legis auxilium invocat, qui in legem committit*, from the *Lex talionis*; he that would not have had others

to have a Law, Why should he have any himself? Why should not that be done to him, that himself would have done to others?

It's true, we give Law to Hares and Deers, because they be Beasts of Chase; It was never accounted either cruelty or foul play, to knock Foxes and Wolves on the head, as they can be found, because these be Beasts of Prey. The Warrener sets Traps for Polcats and other Vermine, for preservation of the Warren.

Further, my Lords, most dangerous Diseases, if not taken in time, they kill; Errors, in great things, as War and Marriage, they allow no time for repentance; it would have been too late to make a Law, when there had been no Law.

My Lords, for further Answer to this Objection, he hath offended against a Law, a Law within the endeavouring to subvert the Lawes, and Polity of the State wherein he lived, which had so long, and with such faithfulness protected his Ancestry, Himself, and his whole Family: It was not *Malum quia prohibitum*, it was *Malum in se*, against the Dictates of the dullest Conscience, against the Light of Nature, they not having a Law, were a Law to themselves.

Besides this, he knew a Law without, that the Parliament, in Cases of this Nature, had *Potestatem vite & necis*.

Nay, he well knew, that he offended the Promulged and Ordinary Rules of Law. Crimes against Law have been Proved, have been Confessed, so that the Question is not *De culpa, sed de pœna*, What degree of Punishment those Faults deserve? We must differ from him in Opinion, That twenty Felonies cannot make a Treason, if it be meant of equallity in the use of the Legislative Power; for he that deserves death for one of these Felonies alone, deserves a Death more Painful, and more Ignominious for all together.

Every Felony is punished with loss of Life, Lands and Goods; a Felony may be aggravated with those Circumstances, as that the Parliament with good reason may add to the Circumstances of Punishment, as was done in the Case of *John Hall*, in the Parliament of the 1 H. 4. who, for a Barbarous Murder, committed upon the Duke of *Glocester*, Stifling him between two Feather-Beds at *Calice*, was Adjudged to be Hanged, Drawn and Quartered.

Batteries by Law are only punishable by Fine, and single Damages to the Party Wounded.

In the Parliament held in 1 H. 4. Cap. 6. one *Savage* committed a Battery upon one *Chedder*, Servant to Sir *John Brooke*, a Knight of the Parliament for *Somersetshire*. It's there Enacted, that he shall pay double Damages, and stand Convicted, if he render not himself by such a time. The manner of proceedings quickned, and the penalty doubled; the Circumstances were considered, it concerned the Common-Wealth, it was a Battery with Breach of Priviledge of Parliament.

This made a perpetual Act: no warning to the first Offender: and in the Kings Bench, as appears by the Book-Case of 9 H. 4. the first leaf, Double Damages were recovered.

My Lords, in this of the Bill, the Offence is High and General, against the King and the Common-wealth, against all, and the best of all.

If every Felony be loss of Life, Lands and Goods; What is Misuser of the Legislative Power, by Addition of Ignominy, in the Death and Disposal of the Lands to the Crown, the Publick Patrimony of the Kingdom?

But,

But it was hoped, that your Lordships had no more skill in the Art of killing Men, then your worthy Ancestors.

My Lords, this Appeal from your selves to your Ancestors we do admit of, although we do not admit of that from your Lordships to the Peers of Ireland.

He hath appealed to them; your Lordships will be pleased to hear, what Judgment they have already given in the case, that is, the several Attainders of Treason in Parliament; after the Statute of 25 E. 3. for Treasons not mentioned, nor within that Statute, and those upon the first Offenders without warning given.

By the Statute of 25 E. 3. it's Treason to levy War against the King; *Gomines* and *Weston* afterwards in Parliament, in the 1 R. 2. n. 38, 39, adjudged Traytors for surrendering two several Castles in France, only out of fear, without any Compliance with the Enemy; this not within the Statute of 25th E. 3.

My Lords, In the 3^d of Rich. 2^d. *John Imperiall* that came into England upon Letters of Safe Conduct, as an Agent for the State of Genoa, sitting in the evening before his door, in *Breadstreet* (as the words of the Records are) *Paulo ante ignitegium*; *John Kirkby*, and another Citizen coming that way, Casually *Kirkby* trod upon his Toe, it being twilight, this grew to a Quarrel, and the Ambassador was slain; *Kirkby* was Indicted of High-Treason, the Indictment finds all this, and that it was only done *se defendendo*, and without malice.

The Judges, it being out of the Statute 25 E. 3. could not proceed; the Parliament declared it Treason, and Judgment afterwards of High-Treason: there's nothing can bring this within the Statute of 25 E. 3. but it concerns the Honor of the Nation, that the Publick Faith should be strictly kept: It might endanger the Traffique of the Kingdom; they made not a Law first, they made the first man an Example; this is in the Parliament-Roll 3 R. 2. Number 18. and *Hillary Terme*, 3 R. 2. Rot. 31. in the Kings-Bench, where Judgment is given against him.

In 11 R. 2. *Tresilian*, and some others, attainted of Treason for delivering Opinions in the Subversion of the Law, and some others for plotting the like. My Lords, the Case hath upon another occasion been opened to your Lordships; only this is observable, that in the Parliament of the first year of *Henry* the Third, where all Treasons are again reduced to the Statute of 25 E. 3. These Attainders were by a particular Act confirmed and made good, that the memory thereof might be transmitted to succeeding Ages, they stand good unto this day; the offences there as here, were the endeavouring the Subversion of the Laws.

My Lords, after the 1 H. 4. Sir *John Mortimer* being committed to the Tower, upon suspicion of Treason, brake Prison, and made his escape; This no way within any Statute, or any former Judgment at Common-Law for this, that is, for breaking the Prison only, and no other cause; in the Parliament held the second year of *Henry* the Sixth, he was attainted of High-Treason by Bill.

My Lords, Poysoning is only Murder, yet one *Richard Cooke* having put Poyson into a Pot of Pottage in the Kitchen of the Bishop of *Rocheſter*, whereof two persons dyed, he's Attainted of Treason, and it was Enacted, that he should be Boyled to Death by the Statute of 22 H. 8. c. 9.

By the Statute of the 25 H. 8. *Elizabeth Barton* the Holy Maid of *Kent*, for pretending Revelations from God, That God was highly displeased with the King, for being Divorced from the Lady *Katherine*, and that in

case

case he persisted in the Separation, and should Marry another, that he would not continue King not above one Moneth after, because this tended to the depriving of the lawful Succession to the Crown, she is Attainted of Treason.

My Lords, all these Attainders, for ought I know, are in force at this day. The Statutes of the First year of *Henry* the 4th. and the First of *Queen Mary*, although they were willing to make the Statute of 25 E. 3. the Rule to the Inferiour Courts, yet they left the Attainders in Parliament, precedent to themselves, untoucht, wherein the Legislative power had been exercised. There's nothing in them whence it can be gathered, but that they intended to leave it as free for the future.

My Lords, In all these Attainders, there were Crimes and Offences against the Law; they thought it not unjust (Circumstances considered) to heighten and add to the degrees of punishment, and that upon the first Offender.

My Lords, we receive, as just, the other Lawes and Statutes made by these our Ancestors, they are the Rules we go by in other Cases, Why should we differ from them in this alone?

These, my Lords, are in part those things, which have satisfied the Commons in passing the Bill, it is now left to the Judgment and Justice of your Lordships.

Upon the Close of Mr. St. *Johns* Speech the House Adjourned, nor was there one word spoken but by Master St. *Johns*, onely the Lord Lieutenant used the last part of his Rhetorick, and by a dumb Eloquence, *Manibus ad sydera tensis*, often holding up his hands towards Heaven, all along Mr. St. *Johns* Speech, made his Replies with a deep silence.

Upon *Fryday*, April the 30th, he Petitioned the Lords to be heard again, alleadging, That his Lawyers had not fully spoken at their last meeting, but this was denied him, because the House of Commons were to have the last Speech, nor were they content to speak again.

The following SPEECH of Mr. Glyns, is, by a Mistake Misplaced, for it ought to be next to my Lords Summary of the Evidence.

Mr. GLYN'S REPLY TO THE Earl of Strafford's DEFENCE.

My Lord of Strafford having concluded the Recapitulation of his Evidence ; Mr. Glyn applyed himself to their Lordships in manner following.

May it please your Lordships,

MY Lord of *strafford* (as your Lordships have observed,) hath spent a great deal of time in his Evidence, and in his course of answering, hath inverted the order of the Articles; he hath spent some time likewise in defending the Articles not objected against him, wherein he hath made a good Answer, if in any : we shall presume to withdraw a while, and rest upon your Lordships patience; and I doubt not but to represent my Lord of *Strafford* as cunning in his Answer, as he is subtil in his practice.

The Committee withdrawing for about the space of half an hour, and then returning to the Bar, Mr. Glyn proceeded as followeth.

My Lords, your Lordships have observed how the Earl of *Strafford* hath been accused by the Commons of *England* of *High Treason*, for a purpose and design to subvert the Fundamental Laws of both the Kingdoms, of *England* and *Ireland*, and to introduce an Arbitrary and Tyrannical Government: The Commons have exhibited Articles in maintenance of that Charge: My Lord of *strafford* hath thereunto answered in Writing. The Commons have proceeded to make good their Charge by proof, and thereunto my Lord of *Strafford* hath made his Defence; and this day my Lord

of

of *Strafford* hath taken upon him to recollect his Evidence, and make his observation upon it, the most he could to his advantage.

My Lords, We that are intrusted for the House of Commons, stand here to recollect the Evidence on our part, and to apply it to the general Charge, and how far it conduces thereunto.

My Lord of *Strafford* in recollecting the Evidence of his Defence, as I did mention before, hath (under favour) exprest very much subtilty, and that in divers particulars, which I shall represent to your Lordships.

My Lords, before I enter upon the recollection of the proofs produced on the behalf of the Commons, I shall make some observations, and give some answer to that recollection of his; though very disorderly to the method I propounded to my self.

And First, in general, it will appear to your Lordships, (looking upon your Notes, and observing his recollection) that he hath used the repetition of Evidence on both sides, in such manner as you know who useth Scripture; that is, to cite as much as makes for his purpose, and leave out the rest. And likewise, that in repetition of the Evidence, he hath mis-recited plainly, very much of the proofs on both sides, and likewise hath pretended some proofs to be for his Defence, which indeed were not: and he hath taken this farther advantage; when it makes for his Defence, he hath disjoynted the Proofs and Testimonies, and severed them asunder, that it might appear to your Lordships, like Rain falling in drops, which considered in distinct drops, bring no horror, or seeming inconvenience with them; but when they are gathered together into an entire body, they make an Inundation, and cover the face of the earth. He would not have your Lordships look on those Testimonies together, but distinctly and asunder, which being put together, look horrid, as will appear to your Lordships, when you duly consider of them.

These be the general observations, which in my Answer I doubt not but to make good: But before I shall enter into observations of what he hath spoken, I shall answer in general to some things which he hath in general alledged.

In the first place, he hath made a flourish this day, and several other days in the way of his Defence, *That if he could have had longer time, he could have made things appear clearer, and have produced more proofs.* Give me leave to inform your Lordships, that he is no way streightned of time, for he hath been charged above three months since: he knew what was laid to his Charge, and therefore his pretence of want of time, and of his disabilities to make better proofs, are but *flourishes*. And it appears plainly, whatsoever he hath had occasion to make use of, even the least paper, though he fetched it from *Ireland*, there is not one wanting; he hath copies of Papers from the Council-Table, from the Parliament of *Ireland*, and all that may any way tend to his justification, and yet he stands upon that *flourish*, *that if he had had time, he could have made it more clear.*

My Lords, He hath mentioned often this day, and oftner the days before, *That many of the Articles laid to his charge, are proved but by one Witness*; and thereupon he takes the advantage of the Statute of E. 6. that sayes, *A man ought not to be condemned for High Treason, without two witnesses.* My Lords, This is a fallacy known to his own breast, I doubt not, and not taught him by any of his Counsel, or others Learned.

The Treason laid to his charge, is, *The subverting of the Laws*; the Evidence is, the *Article* proved: and though some one *Article* appears to be proved but by one, yet put the Evidence together, you shall never

find it to be within the words or meaning of the Statute; for the Charge is proved by a hundred Witnesses: and because one part of the Evidence is proved only by one Witness, since, when you put them together, you will find a hundred Witnesses, it is not within the words, nor meaning of the Statute, neither will his Counsel direct him to say so, I am confident.

My Lords, another observation I shall be bold to make, is, that he was pleased to cast an aspersion (as we must apprehend) upon them that are trusted by the House of Commons this day, That we that stand here, alledged and affirmed things to be proved, that are not proved. He might have pleased to have spared that language; we stand here to justify our selves, that we do not use to express any language, but what our hearts and consciences tell us is true; and howsoever he is pleased to cast it upon us, I am confident I shall invert it upon himself, and make it appear, that he hath been this day guilty in the highest degree, of what he most unjustly layeth to our charge.

And now my Lords, to enter upon the particulars he hath been pleased to make it his general Theme to day (though he hath not spoke much to day but what he hath spoken formerly) that these particulars considered by themselves *make not a Treason, and therefore put together, he wonders how they should make a Treason: Several misdemeanors can never make a murther, and several Murthers can never make a Treason; and he wonders it should be otherwise in this Case.* My Lords, He did instance it (if my memory fails not) in a Case of Felony; *That if a bloody knife should be produced in the hand of the party suspected to have slain the man, if the party had been there seen before the death, it were a strange Evidence; but there must be death in the case, the fact must be committed, else there can be no murther:* but he himself might answer himself, for there is a great difference; There cannot be murther but there must be death, but he knows very well there may be Treason and yet no death; it is too late to forbear questioning Treason *for killing the King, till the King be killed:* God forbid we should stay in that Case, for the *very intention* is the Treason, and it is the *intention of the death of the Law* that is in question, and it had been too late to call him to question, to answer with his life, for the death of the Law, if the Law had been killed, for there had been no Law then; and how should the Law then have adjudged it Treason, when the same were subverted and destroyed? and therefore he is much mistaken.

The greatest Traitor, in the memory of any that sits here to hear me this day, had a better, a fairer excuse in this particular, than my Lord of *Strafford*, and that is *Guido Faux*; for he might have objected, that the taking of the Cellar, the laying of the Powder under the Parliament-House, the kindling of the Match, and putting it near, are not so much as a misdemeanor, if you look no further; for it was no offence in him to lay Barrels under the Parliament-House, and to kindle the Match, and to lay it near; but collect all together, that it was *ea intentione, to blow up the King and the State*, there is the Treason: but God be blessed it was not effected; so that the rule is the same. Nay, my Lord of *Strafford* hath not so much to say, when he is charged with a purpose and intention to subvert the Law; for to that purpose gave he traitorous Counsels, and executed actions, thereby discovering his intentions to destroy the Kingdom, and to destroy the Kings claim by Law, and discent. It is true, they were not put in execution, but they declared his intentions; therefore this gives an answer to his first flourish, which is not so great an Argument as the greatest

greatest Traytor might use for himself, and yet it proved Treason in him.

My Lords, he hath been pleased to divide his Treasons into two parts, and his division I allow of; that is, Treason by Statute-Law, as he terms it, though it be Treason by the Common-Law; and constructive Treason: And upon that method he hath recited the evidence produced on either part; Give me leave to follow and trace him a little, and afterwards to discharge my own duty in taking my own course, and representing the evidence as it appears, truly; and I will avoid (as much as I can) to fall into my Lord of *Strafford's* error, in mis-reciting a *Particle*; if I do, it shall be against my will.

He begins with the Fifteenth Article, and pretends that that is not proved: The ground and foundation of that *Article*, was a Warrant issued out by himself to a Sergeant at Arms, one *Savill*, which gave directions and power to that Sergeant, to lay Soldiers on any person that should contemn the Process of the Council-board in *Ireland*; that was the effect: Now (says he) *this Warrant is not produced*, and adds, *That the Judges will tell your Lordships, that if a man be charged with anything under Hand and Seal, the Deed must be produced and proved, or else no credit is to be given to it.* Truly, my Lords, it is true, if it had been a Bond, or a Deed, where those that Seal it, use to call their neighbors to testify, and be Witnesses to it, perhaps it might be a colourable answer, that because we do not produce the Deed, and prove it by Witnesses, you can therefore give no credit to it: But my Lords, in case of authority to commit High Treason, I suppose my Lord of *strafford*, nor any other, did call witnesses to prove the Signing, Sealing, and Delivering of the Warrant for execution of High Treason; and therefore it is a new way and invention found out by his Lordship, for ought I see, to commit High Treason, and to give authority for it; and it is but taking away the original Warrant, and he shall never be touched for any Treason. But I beseech your Lordships patience, till I come to open that Article, and your Lordships will find the Warrant, (though it be not produced,) proved by three or four Witnesses, and his Hand and Seal proved too. And whereas he pretends the Sergeant at Arms is no competent Witness, because he excuses himself; my Lord mistakes himself, for I take it to be no excuse, to prove a Warrant from any person whatsoever, if it be to commit High Treason: and therefore *Savil's* testimony is the more strong, being so far from excusing, that he doth accuse himself: And though he is charged with laying of Soldiers upon the Kings people, contrary to an express Act of Parliament made in 18 H. 6. yet my Lord is pleased (I know not how to term it, whether it be merrily or otherwise) to use his Retorick, *Here is a great levying of War, when there is not above four Musquetiers, or six at most, laid upon any one man.*

My Lords, it is a plain levying of War, and without all question, and in all sense, it is as much mischievous to me to be surprized by four or six Musquetiers, to enforce me to any thing they would have, as if there were an Army of Forty thousand brought upon me; for if that strength will but over-master me, it is all one to me, whether I be mastered by four, or by four thousand. And therefore let not this be a rule, that to send four, or six, or ten Musquetiers up and down, is not considerable, because of the smallness of the number (the danger is the same;) yet *this is no levying of War, because they goe not in Troops of greater number*, as it pleases my Lord of *strafford* to affirm

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My Lords, Your Lordships remember what the effect of the Warrant is sworn to be, that howsoever the Sergeant at Arms, and his Ministers that executed it, brought but four, or six, or ten, yet the Sergeant might have brought all the Army of *Ireland*, for there was authority so to do.

And admitting the matter of Fact proved, he mentions an Act of Parliament made 11 *Eliz.* whereby a penalty is laid upon men that shall lay Soldiers on the Kings Subjects, and yet (as my Lord observes) *it must now be Treason in the Deputy.*

My Lords, The very casting of an eye upon that Act, shews it to be as vainly objected, as if he had said nothing; for in truth it is no other, than as if he should say, *The King hath given me the Command of an Army in Ireland, and therefore I may turn them upon the bowels of the Kings Subjects:* It is no more in effect.

Your Lordships heard him the other day mentioning two Acts of Repeal, and I expected he would have insisted upon them; but it seems he hath been better advised, and thinks them not worthy repetition, nor indeed are they. And if the matter of Fact be proved upon the Fifteenth Article, I am confident he will find the Statute of 18 *H. 6.* to be of full force.

My Lords, I am very sorry to hear, that when levying of War upon the Kings Subjects is in agitation, and he charged with High Treason, he should make mention of the *Yorkshire* men, and the Army now on foot, whereby he would insinuate, that *if he be charged with High Treason, then they must be likewise*, though they lye quartered, and have meat and drink with the assent of the people; which may breed ill blood for ought I know.

From the Fifteenth Article he descends to the three and twentieth, and that is the Article whereby he stands charged with *speaking of Words, and giving of Counsel to His Majesty, to incense him against His Parliament* pretending a necessity, and telling him, *he is loose and absolved from all rules of Government; that he had an Army in Ireland, which he might make use of to reduce this kingdom.* In this he is pleased to begin with the Testimony of my Lord Ranelagh, conceiving an apprehension and fear in him, that the Army should go over to *England*, which my Lord says, *is no more but his saying, and Mr. Treasurer Vane's.*

I pray God my Lord Ranelagh had not much cause to fear; but by the same rule he may lay a charge of unwarrantable fear upon all the Commons; for sure the Commons of *England* did fear it, else they would not make an Article of it: but my Lord Ranelagh's fear did not arise from a slight cause, and he shewed himself a good Common-wealths man in expressing it, and he is to be commended for it, howsoever it be apprehended by my Lord of *Strafford.*

For his observation of the single Testimony of Mr. Treasurer *Vane*, give me leave to take the same latitude as his Lordship did; for he shews to three or four Articles what he could have proved; as to the Article concerning the Army, *he could have proved the design of it by Sir John Burlacy, and some others if they had been here.* But by this rule and liberty, he hath taken to alledge what he could have shown, give me leave to tell you what we might have shown, and are ready to show: we could have made it express, and proved it by Notes, taken by Secretary *Vane*, the 5th of *May*, when the words were spoken, which Notes should have been proved, if we had proceeded on the Three and twentieth Article, to corroborate the Testimony of Mr. Secretary *Vane*, and that by two Witnesses.

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We could likewise have shown how we came to the knowledge of it, it being by means unknown to Mr. Secretary *Vane*, and have made him an upright Counsellor and Witness: but we shall prove his intentions to bring in the Irish Army another way, when I come to open my own course and method.

My Lords, he pretends these words were spoken the 5th of May, but when they were testified by Mr. Treasurer, he did not speak of the 5th of May, and yet now my Lord remembers the day: and I wonder how he came to the knowledge of the day, unless he likewise remembered the words.

But that my Lord observes, is, *That being spoken then, how should he persuade the King, that he had an Army in Ireland, when in truth he had none there? for the Army was not on foot till a month after.* This my Lords, is plainly answered; and if he had thought of his own answer, he had answered himself: for he tels you, *That in April before, he had taken a course for the levying of the Army, he had nominated the Officers, giving direction for raising it: and the day of the Rendezvous of the Army was appointed the 18th of May.* And so in his own answer he makes an answer to the objection, and the objection is taken away out of his own confession.

From that Article he falls to the seven and twentieth Article, whereby he stands charged with *Levying Money by force upon the Kings people in York-shire*: he is pleased to observe *that all the prooffe for the maintenance of that Article, is only the levying of Money by four Soldiers by Sergeant-Major Yaworth*; where he is pleased to disdain the War, because it was so weak; yet it was too strong for them (God help them) that were forced upon pain of life to pay it. And whereas he pretends the Warrant was not from him, I shall reserve that till I come to the Article, and when I come to the proofs, I believe it will remain fixed upon him.

And there he left his Statute-Treason, and now he falls to the second kind of Treason, and that was the introductive or constructive Treason: He begins with the third Article, that is, concerning some words that he should be charged to have spoken in *Ireland*; and I shall desire that your Lordships would be pleased to look upon your Notes, how he answers that Article; My Lords, says he, *I am charged to say that Ireland was a conquered Nation, and that their Charters were nothing worth, and bind the King no further than he pleaseth; therefore I am a Traitor because I speak the Truth.* There was his Answer in his Collection. And for their Charters he says, *he might very well say so, for he intended it no otherwise, but according to the validity of them, for they were several ways questionable, and ought not to bind unless they were good in Law.* But if you look upon his Arguments, he hath like a cunning Orator, omitted the principal part of the Article; and that is, *That Ireland is a conquered Nation, and they were to be governed as the King pleaseth, the King might do with them what he list*; this he omits, although they be proved by three witnesses, and are applicable to his intentions fully; yet he could make use of so much as makes for him, and leaves out the rest, like your Lordships know whom.

Then he descends to the fourth Article, and this concerns some words he should speak, upon an occasion betwixt him and my Lord of *Cork*, that he should tell my Lord of *Cork*, *He would have neither Law nor Lawyers dispute or question his Orders.* And upon another occasion, *That he would make my Lord of Cork, and all Ireland know, that all Acts of State (which are Acts of Council) there made, or to be made, should be as binding as any Act of Parliament*: This he said was proved but by one witness: and I extremely
marvel

marvel to hear him say so; for the latter words we proved by four, or five, or six witnesses, that is, *That he would have Acts of State, as binding as Acts of Parliament.* Whereas he sayes, these are all the words produced against him in the time of seven years Government there; your Lordships have heard of many words, and if we would trouble your Lordships further in this kind, we could prove such words spoken, as often almost as he remained dayes in Ireland, that is, for the mis-recital. The other part two witnesses proved; but the residue, *That they must expect Law from the King as a Conqueror, That Acts of State should be equal to Acts of Parliament, and when an Act of Parliament would not pass, he would make it good by an Act of State,* these speeches at other times were proved by five witnesses.

Then he falls back to the second Article, touching the words, *That the Kings little finger should be heavier than the loins of the Law.*

My Lords, These words were proved expressly by five witnesses, to be by him spoken; and if he had produced five hundred that had said he did not speak them, they had not been equivalent to disprove five; but he produces none. Sir William Penniman repeats other words, and inverts them, and none but he. Another party, a Minister, reports a report that he heard concerning these words, but my Lord, he saith, the occasion of the speaking of them was not mentioned. Truly perhaps it might be the forgetfulness of my Lords memory, but let me put him in mind; and your Lordships remember that the occasion was exprest by one, and that is Sir David Fowles, that he laying a command upon Sir David, to repair a Bridge, and calling him to an account why it was not repaired, Sir David Fowles told him *he could not do it by Law.* And therefore omitting it, my Lord said to him, *Sir, some are all for Law and Lawyers, but you shall know, that the Kings little finger will be heavier than the loins of the Law.* Here is the occasion, though he would have another business, the knighting Money to be the occasion.

From the second he falls to the three and twentieth Article, that is, concerning words, that he should counsel His Majesty, that *he might use His Prerogative as he pleased;* but in saying there was no proof offered, he here begins to fall upon the other fallacy, that is, to pull things asunder (whereas we produce them together) and would make that which is a *Fagot*, to be but a single *Stick*; but under favour, when I come, with your Lordships patience, to open the force of the proofs, and put them together, he shall find (contrary to his expectation) that they are fully proved by the testimony of many witnesses, upon consideration of the precedent, concurrent, and subsequent Acts and Intentions of my Lord of Strafford.

I shall not now run over my Lord Primates testimony, or my Lord Conways, or master Treasurers, or my Lord of Bristols, but make use of them in their proper places, when I shall put all together, to shew his design, and to prove his speaking of the words.

Then he comes to the five and twentieth Article, which I shall not insist on, though he pretends it not proved; I shall refer that to my recollection, that I may not answer to his pieces, but bring all together, and then the horror of his Fact shall more speciously appear. Only this (under favour) I cannot pass over, when he comes to justify an Advice and Counsel of the Kings being loose and absolved from all rules of Government, and that he might use his Prerogative as he pleases, he is pleased to mention the Argument of the Judges in the Ship-money, and what they should deliver, he makes the Warrant of his Counsel. Now your Lordships may observe,

observe, he would justify his actions by Law, in some cases, where it is to his advantage, but in other cases he must be ignorant of the Law.

But my Lords, for him to mention any thing in the Argument of the Judges, concerning the Ship-money, which is now cendemned, and to make that a ground of his Counsel and advice to the King, and not the judgement in truth, but the Argument of the Counsel at Bar, that therefore he is loose, and absolved from all rule of Government; for him to make the Parliaments deferring to give supply, to be that necessity which was insisted upon in the Counsels Argument, and to be such an unavoidable necessity, as to beget an Invasion upon Propriety and Liberty, it rests in your Judgements, and the judgements of all that hear me, what argument this is, and what he declares his opinion to be this day.

In the latter part let me close hands, and agree with him; he sayes, Proofs must be taken by themselves, they must not be judged by pieces, but together; and now in good time I shall joyn with him, and shall desire the same judgement, that things may not be taken asunder, but judged together according to his own words.

For the twentieth Article, he is thereby charged with *being an Incendiary between both Nations, and an occasion of drawing two Armies into this Kingdom, and to incense the War.*

My Lords, I remember (if I did not mis-conceive, and my memory misprompt me) my Lord said, *He could have no occasion to incense a War, being a man of an Estate, and should have no benefit by it, having sufficient to live without it:* but in due time I shall make it appear, to my apprehension, and I believe to your Lordships, when you have heard it, that the incensing of this War, and provoking of it, was the principal instrument of bringing to pass his design of subverting the Laws, through the whole work of it.

My Lords, in the passage of this, he takes occasion to speak of the testimony of Mr. Secretary Vane, who testifies, *That my Lord was for an offensive, and himself for a defensive War:* Whence my Lord argues, here is no great difference, for both were for a War: But my Lord, Is there no difference between an offensive and defensive War, in case of Subjects that live under one King? is there no difference to bring an Army to offend them, and for the King to raise a force to defend himself? truly I think there is a great difference, and a very material one too: but your Lordships see he makes no difference between them.

My Lords, In the four and twentieth Article he mentions, *That he is charged with being an occasion to break the Parliament,* and lays hold of that, as in the other Articles, *That it was not proved, but declined.* My Lords, when he shall hear the repetition of the Evidence, though part of the Article was not particularly insisted upon, yet I believe it will appear to your Lordships, and the world, that he was the occasion of breaking the last Parliament, and it is expressly proved by witnesses enough; and though he says, *How should any body think him an occasion of it, that did so often advise Parliaments?* yet I shall shew anon, that when he did advise them, it was to compass his own Design and Plot, without which, his ends could not be brought to pass.

He came from the Four and twentieth Article, to the Seven and twentieth, and he answers against that Article, *That when Armies are in the field, men cannot walk so peaceably, as an Attorney with his Box and Papers in Westminster-Hall.* I know not what he means; but when two Armies are in the field, they may raise War against the Kings people, as well as

the King for his just defence; it is the way to make his people terrified with Armies, and to avoid them as a Serpent, and therefore it is a dangerous aspersion, as I conceive.

With these he concluded, except some things that he took, by way of artificial insinuation, to perswade your Lordships, *That it was dangerous to raise a Treason that had lain asleep, I know not how many hundred years, and create a Treason.* A strange thing indeed it is, *That a man shall be charged with a Treason for subverting the Law!* A strange thing that one should be charged with Treason for killing a Justice sitting in the Seat of Justice, and yet it should be no Treason to destroy King, and Kingdom, and people, and all; all which are destroyed, if the Law be subverted.

And now having touched upon what he hath spoken, with your Lordships good favour, I shall crave leave to run the course I have propounded with my self: and that very briefly; that is, upon the whole matter, to shew how far the Evidence, produced on the Commons part, doth prove the Charge.

My Lords, *That laid to his charge, is a design and purpose to subvert the fundamental Laws of two kingdoms, and to introduce an Arbitrary and Tyrannical Government;* not that he did effect it, but that he did intend it: for if he had done it, it had been too late to question it, he had left no rule whereby to call him to Tryal; but his intention and his endeavour are his charge.

My Lords, How far this is proved, if your Lordships be pleased to call to mind the Articles and the Evidences produced on the Commons part, your Lordships will find, I believe, that his Words, his Counsels, and his Actions, do sufficiently prove his endeavouring to destroy.

In the first Article, where my Lord of *Strafford* hath the first opportunity offered him to put this endeavour in execution (that is the first place of eminency amongst his other Places and Commands, which I take it, was his being made President of the North) he is no sooner there, but there be instructions procured to enable him to proceed in that Court, almost in all Causes; for a man can scarce think of a Cause, which is not comprehended within the Instructions obtained after his coming thither: but I shall put your Lordship in mind of two clauses of the Instructions procured in the Eighth year of this King, and after he was President; that is, the clause of *Habeas Corpus*, and *Prohibitions*; that no man should obtain a *Prohibition*, to stay any Suit that should be commenced before him, in the Council of York; That if any man should be imprisoned by any Process out of that Court, he must have no *Habeas Corpus*. A *Prohibition* is the only means to vindicate the estate of the Subject, if it be questioned without Authority. A *Habeas Corpus* is the only means to vindicate his Liberty, if he be detained without Law: but these doors must be shut against the Kings Subjects, that if either they be questioned, or restrained before him, there must be no relief. How far he could go further I am to seek, there being no means for the Subject to relieve himself, if he be questioned for his Estate without authority; no means to redeem himself, if his person be imprisoned without Law. And he had so incircled himself about, that if the Judges should find the party that returns not the *Habeas Corpus*, according to Law, there was a Power, and a Warrant, by the Instructions, to the Barons, to discharge the Officers of that Fine. And now I refer it to your Lordships judgements, Whether this be not to draw an Arbitrary Power to himself.

For the execution of this Power, it is true, it is proved to be before the instructions in the eighth year of the King; but then it riseth the more in judgement against him; for your Lordships have heard how he went into a grave Judges Chamber, blaming him for giving way to a *Prohibition*, granting Attachments against one that moved for a *Prohibition*; and though this was done before the Instructions were granted, yet the Instructions coming at the heels of it, sheweth his disposition and resolution more clearly, for he acts it first, and then procures this colour to protect it: and though he pretends there was no proof, yet I must put your Lordships in mind, that when these things were in question, concerning the apprehension of a Knight, by a Sergeant at Arms, he kneels to His Majesty, *That this defect might be supplied, and this jurisdiction maintained, else he might goe to his own Cottage.*

And here being the just commencement of his greatness, if you look to the second, it follows, That at the publick Assizes he declared, *That some were all for Law, but they should find the Kings little finger heavier than the loins of the Law.* He did not say it was so, but he infused it as much as he could into the hearts of the Kings people, *that they should find it so*; and so he reflects upon the King, and upon his people; the words are proved: And to speak them in such a presence, and at such a time, before the Judges and Countrey assembled, they were so dangerous, and so high expressions of an intention to counsel the King, or act it himself, to exercise an Arbitrary Government, above the weight of the Law, as possibly could be exprest by words. And this is proved by five witnesses, and not disproved, nor is any colour of disproof offered, but only by Sir William Penniman, who says, *he heard other words, but not that he heard not these words*, If he doth, he must give me leave not to believe him; for five affirmations will weigh down the proof of a thousand negatives.

He stays not long in *England* with this power (though while he stays, you hear how he vexes the Subject) but then he goes into *Ireland*, and as his authority increases, so he ampliates his design; and no sooner is he there, but the third Article is laid to his charge; That when the City and Recorder of *Dublin*, the principal City of *Ireland*, presented the Mayor, upon a solemn Speech and Discourse concerning the Laws and Liberties (as your Lordships know that is the subject matter of a Speech at such presentments, as when the Lord Mayor of *London* is presented to the King) I beseech your Lordship, observe the words he then used, *They were a conquered Nation, and that we lay not to his charge, but they were to be governed as the King pleases, their Charters were nothing worth, and bind but during the Kings pleasure.*

I am to seek, if I were to express an Arbitrary Power, and Tyrannical Government, how to express it in finer words, and more significant terms than these, *That the people shall be governed at the Kings Will, that their Charters, the sinews and ligatures of their Liberties, Lands, and Estates, should be nothing worth, and bind no longer than the Kings pleasure*, especially being spoken upon such an occasion, and the words proved by two or three Witnesses of credit and quality.

From thence we descend to Articles, that shew the execution of his purpose. There are three things a man enjoys by the protection of the Law; that is, his Life, his Liberty, and his Estate. And now, my Lords, observe how he invades, and exercises a Tyrannical Jurisdiction, and Arbitrary Government over them all three. I shall begin with the fifth Article, that is concerning my Lord Mountnorris and Denwit. My Lord Mountnorris, a

Peer of that Realm, was sentenced to death by procurement of my Lord of *Strafford*; who, howsoever he pretends himself not to be a Judge in the cause, yet how far he was an Abettor, and Procurer, and Countenancer, and drawer on of that Sentence, your Lordships very well remember; he was sentenced to death without Law, for speaking words at a private Table, God knows, of no manner of consequence in the world, *concerning the treading upon my Lord of Strafford's Toe*; the Sentence, procured seven months after the words spoken, and contrary to Law, and himself being put in mind of it, my Lord *Mountnorris* desiring to have the benefit of the Law, and yet he refusing it.

And then it was in time of Peace, when all the Courts of Justice were open, and to sentence a man to death of that quality, my Lord of *Strafford* himself being present, an author, a drawer on of it, makes it very hainous. Your Lordships remember this Article was fully proved, and though he pretends His Authority by a Letter from His Majesty, I shall in due time give a full answer to that, so that it shall rise up in judgement against him, to aggravate his offence, and that in a great measure.

Here he exercises a Power over Life, his excuse was, *That he procured a Pardon from my Lord Mountnorris*, but the Power was exercised, and the Tyranny appeared to be the more; *He would first sentence him to death, and then rejoyce in his Power*, that he might say, *There remains no more but my command to the Provost Marshal to do execution*. To exercise a power over his life, and to abuse him afterwards, is very high; but no thanks to him that the sentence of death was not executed, it was the Grace and Goodness of His Majesty, that would not suffer my Lord *Mountnorris*, a person of that Eminence, to be put to death against Law.

But the other was hanged, and as appears, against Law; and though my Lord pretends the party was burnt in the hand, yet that was not proved, nor material: and for him to do this in time of Peace, when the Courts of Justice were open, it argues a desire in his Breast, to arrogate a Power above Law.

And in truth I may not omit some observations that my Lord made this day; *He hopes His Majesty would be pleased to grant him a Pardon*. I perceive he harboured in this thoughts, that he might hang the Kings Subjects when he would, and then get a Pardon of course for it. The Lord bless me from his jurisdiction.

My Lords, give me leave to goe back again, here is Power over the Lives and Liberties of the Subject; but he exercised likewise a Tyrannical Power over his Estate. Your Lordships may be pleased to remember the fourth Article, where he judges my Lord of *Cork's* Estate, in neither Church-land, nor Plantation-land, and therefore had no pretence of a Jurisdiction; for it is a Lay Fee divolyed by Act of Parliament to the Crown; yet he deprives him of his possession, which he had continued for Twenty nine years, upon a Paper-Petition, without rules of Law. And whereas my Lord of *Cork* went about to redeem himself (the Law being every man's inheritance, and that which he ought to enjoy) he tels him, *He will lay him by the heels, if he withdraw not his Procefs*: and so when he hath judged him against an exprels Act of Parliament, and Instructions, and bound up a great Peer of the Realm, he will not suffer him to redeem that wrong, without a threat of *laying him by the heels*, and he will not have Law nor Lawyers question his Orders, and would have them all know, an Act of State should be equal to an Act of Parliament: which are words of that nature,

nature, that higher cannot be spoken, to declare an intention to proceed in an Arbitrary way.

The next was in my Lord *Mountnorris* his Case, and *Rolstone*. And here I must touch my Lord with misrepetition. *Rolstone* preferred a Petition to my Lord Deputy, my Lord Deputy himself judges his Estate, and deprived him of his possession, though he cannot produce so much as one example, or precedent (though if he had, it would not have warranted an illegal action) but he cannot produce a precedent, that ever any Deputy did determine concerning a mans private Estate; and if he hath affirmed it, he proved it not: some Petitions have been preferred to him, but what they be *non constat*. But though never any knew the Deputy alone to determine matters of Land, yet he did it.

To the Seventh Article we produce no Evidence; but my Lord of *Strafford* cannot be content with that, but he must take upon him to make defence for that which is not insisted upon as a charge; but since he will do so, I refer it to the Book in print, where he determines the Inheritance of a Nobleman in that Kingdom, that is, my Lord *Dillon*, by a Case falsely drawn, and contrary to his consent; and though he deprives him not of his possession; yet he causes the Land to be measured out, and it is a danger that hangs over his head to this day. And had we not known that we had matter enough against my Lord of *Strafford*, this should have risen in judgement against him; but I had not mentioned it now, if he had not mentioned it himself.

The Eighth Article contains several charges, as that of my Lord Chancellor, *How he imprisoned him upon a Judgement before himself and the Council, how he enforced the Seal from him when he had no authority; nay, though it were excepted by his Patent, that he should no way dispose of it; but he looked not to Authority, further than might make way to his Will.*

Another concerns the prime Earl of that Kingdom, my Lord of *Kildare*, whom he imprisoned, and kept close prisoner, contrary to the Kings express command for his deliverance; and in his answer my Lord acknowledges it, but sayes, That *that command was obtained from the King upon a mis-information.*

These things I would not have mentioned, if he had passed them over; but since he gives them in, give me leave to mention and say, we had a ground to put them into Charge, and could have proved them, if there had been need, punctually and expressly, and I believe, little to my Lords advantage.

But your Lordships, I think, do remember my Lady *Hibbotts* Case, where the Lady *Hibbotts* contracts with *Thomas Hibbotts* for his Inheritance, for 2500 l. executes the Contract by a Deed, and Fine levied, deposits part of the Money, and when a Petition was exhibited to the Lord Deputy and Council for the very Estate, your Lordships remember how this came in judgment before my Lord Deputy; there was but a Petition delivered, there was an answer made, and all the suggestions of the Petition denied; yet my Lord spake to *Hibbotts* himself, that was willing to accept the Money, *not to decline the way that he was in by Petition, Five hundred pound more will do him no hurt to carry into England with him:* and yet, without examination of a Witness, a Decree was made to deprive this Lady of her Estate: and the purchasing of this Land by my Lord of *Strafford*, was proved by two Witnesses, though not absolutely, yet by confession of Sir *Robert Meredith* and others, whose names were used in Trust for my Lord of *Strafford*, and that it proved according to my Lord of *Straffords* Prophecy:

Prophecy; for the man had five hundred pounds gain above the Contract with my Lady *Hibbotts*.

But after the Lands were sold for Seven thousand pounds: so that the Lady *Hibbotts* offence was her making of a bargain, whereby to gain Five hundred pounds; but there was no offence in my Lord, to make a bargain for Three thousand pounds, and to gain Four thousand pounds presently: this you see proved by *Hibbotts* the party, and by Mr. *Hoy*, the Son of the Lady *Hibbotts*,

So that here is a determination of a Cause before the Council-Table, touching Land, which was neither Plantation, nor Church-Land, without colour of the Instructions, contrary to Law, to Statute, to Practice; and if this be not an exercising of an unlawful jurisdiction over the Land and Estates of the Subject, I know not what is.

In his answer to this case he did open it (yet whether he mistook or no I know not) that he had a Letter from the King, but he produces none in evidence; and that is another mis-recital. I am sorry he should mis-recite, and fix it upon the Person of His Sovereign in a case of this nature.

Now he falls more immediately upon the liberty of the Subject, and that is by the Warrant mentioned in the Ninth Article, to be issued to the Bishop of *Down* and *Conner*, whereby he gives power to him and his Officers, to apprehend any of the Kings Subjects that appeared not upon Process out of his Ecclesiastical Courts, expressly contrary to Law; and your Lordships have heard how miserably the Kings Subjects were used by this Warrant, as hath been proved by a Gentleman of Quality, Sir *James Mountgomery*: And howsoever he pretends it was called in, it was three whole years in execution, before it was called in; and though he pretends his Predecessors did ordinarily grant Warrants of that nature, yet he proves no such thing.

My Lord Primate was examined, and he says, that Bishop *Mountgomery* did tell him there was such a Warrant, and one Witness more speaks of one Warrant, and that is all the Witnesses produced, and that but to be a Copy too. Your Lordships have heard how he exercises his jurisdiction and power over particulars, and that in a numerous manner; now your Lordships shall find it universal, and spread over the face of that Kingdom that was under his jurisdiction, and that is in the tenth Article, which concerns the Customs: where he doth impose upon the Kings Subjects a Rate and Tax against Law, and enforces them to pay it, or else punishes them for it; which is expressly an arrogating to himself of a jurisdiction above the Law.

My Lords, in his answer he pretends that *this is rather a matter of fraud than otherwise*: in truth and so it is, and that a great one too. But as it is a fraud, a dis-service, and deceit to His Majesty, so it is likewise an exercise of a Tyrannical Jurisdiction over his Subjects. That it is a fraud to His Majesty, it plainly appears, for the King lost exceedingly by it; whereas before the Rent afforded the King was 11050. *l.* there was improved by the new Lease, that my Lord of *Strafford* took but 1350. *l.* and I beseech your Lordships observe how much the King lost by it; for my Lord had comprehended in his new Lease the Impost of Wine, for which the King before that time received 1400. *l.* a year; and likewise the Custom of *London-derry*, *Colerane*, and *Knockfergus*, for which the King had reserved 1700. *l.* a year, besides the moiety of the seizures: so here is 5000. *l.* that the King lost of the old Rent expressly: and if your Lordships please, observe the gain and benefit my Lord of *Strafford* made by it; in one year

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he and his sharers received 39000*l.* and in the last year 51000*l.* and that expressly proved upon two accounts: and if this be his dealing, where is his service to the King in his pretence to advance the Customs?

It is true, he says, *The King hath five eighth parts*, but it was but within these two years, the King had it not before. And I would very gladly have heard whether the King received his part of an account of 55000*l.* if he had received it, I believe we should have heard of it.

My Lords, There is something more; here is a new imposition on the Kings people without Law, and yet I will do my Lord of *Strafford* no injury: but I tell you how the proof stands; It was a Book of Rates framed before he came to the farm, for the Book of Rates was in *March*, and the Date of his Assignment was in *April* following; and therefore my Lord saith, *It could not be for his benefit*. But, my Lords, all this while my Lord of *Strafford* was in *England*, and in agitation for the procuring of it, and they come one upon the heels of another, and I beseech you observe *cui bono*; the Book of Rates was procured within a month of the Patent, but God knows whether it were not within the compass of his intentions to take the Patent; and therefore whether he were not the Instrument of raising Rates, it rests in your Lordships judgement, and all that hear me; I am sure the benefit redounded to himself: and so here is an Arbitrary Government in imposing and forcing to pay, for that I desire your Lordships to take with you; and he might as well have raised nineteen shillings on a pound, as nine pence or three pence, by the same rule of Law.

The next *Article* in number was the Eleventh, and I would be glad my Lord had not mentioned it; it concerns the Pipe-staves, wherein he pretends he did the King great service, and that, he says, *was the reason of our passing over it*: but that was not the reason; it had been a foul business if we had opened it; but having enough besides, we made not use of it: for the substance of the proofs by multiplicity of Witnesses had been, that the parties themselves that bought the Pipe-staves for four pound odd money, were fain to sell them to his Instruments for six pounds, and after to buy them again for ten pounds, else there must be no Licence to export them: but that I would not have mentioned, if he had let it slip over.

I come to the Twelfth *Article*, and that is concerning the Tobacco, wherein he pretends *the Kings service*, and if my memory fail me not, *the desire of the Parliament*, that he should take this into his hands for the King.

My Lords, Therein, under his favour, he hath mis-recited the Evidence, and spoken that he cannot justify; for he can shew no such desire of the Parliament. It is true, there was a desire of the Parliament, that the King would be pleased to take his Customs into his hands, for the advancement of his Revenue, that it might go to maintain himself, and he might not be abused, and others live by it; but to take the Tobacco into his hands, he never did, nor can produce a witness to prove such their desire; and therefore, under favour, he fixes a wrong upon the Parliament, and injures your Lordships by his reciting that he neither did nor can make good; for there was no such thing.

But if you observe the course he takes, he makes Proclamation to hinder the importing of Tobacco into *Ireland*; that if it be imported, it must be sold to him at his own rate; and by this means he first hinders the liberty of the Subject from doing what the Law allows him, and so takes on him an Arbitrary Power; And Secondly, he ingrosses this commodity to himself, deceiving His Majesty, to whom he professeth so much fidelity; for whereas there is 5000*l.* Rent to the King, he, by the computation of Merchants,

Merchants, receives near 14000 *l.* a year: And because their computations are not always true, I do not care if I allow him 40000 *l.* mistaken, and then he will gain near 100000 *l.* so that if he intends the Kings benefit, it is wonder he told not His Majesty of the great profit that might thereby have risen, and let him partake of it, as in Justice he should have done, according to the Trust reposed in him: but you have heard of no such matter. And surely my Lord of *Strafford* would not have omitted it, if it had been for his advantage, especially in this presence, where he omits nothing to clear himself, or to insinuate with His Majesty.

Now I come to the Thirteenth *Article*, the *Article* concerning Flax, which I know is fresh in your Lordships memories, and I believe will be so in the memories of the Subjects of *Ireland* for many years, how he ingrossed it into his hands, and interrupted the Trade of the poor People, whereby such miseries and calamities befell many of that Nation, that as you have heard it proved, thousands dye in ditches for want of Bread to put in their mouths. And whereas he pretends that this was proved but by one witness, and that man to be imprisoned, and of no credit, though he was his own instrument; your Lordships remember Sir *John Clotworthy* his testimony, and anothers, and his own Warrant produced, and acknowledged here to justify the execution of it, and such a thing was thereby taken into his own hands, that I profess I never heard the like, that the poor people should be constrained to use their own as he pleased, and that pleasing of himself laid an impossibility on the people to execute his pleasure, which was a bondage exceeding that of the Israelites under the Egyptians; for there was not laid so much upon the Children of *Israel*, but there was a possibility to perform; they might with much labour perchance get stubble to burn their Brick, but the Natives here must have a charge laid upon them without possibility to perform, and the disobedience must cost them no less than the loss of their Goods, which drew with it even the loss of their lives for want of bread. This was not proved by only one witness, but by many. And your Lordships remember the remonstrance of that Parliament of *Ireland*, which declares it to a greater height than I have opened it.

The Fifteenth *Article*, is that of *Levyng War upon the Kings Subjects*, expressly within the Statute of 25 *Edw.* 3. and 18 *H.* 6. Your Lordships have heard the Warrant proved by the party himself, to whom it was directed; whereby Power was given to lay Soldiers upon any party, that did not obey my Lord of *Strafford*s Orders at the Council Table, but not to circumscribe him to a certain number; but the Sergeant at Arms and his Ministers, might lay as many as they would. It is true, this Warrant was not it self produced, but a copy was offered, which was not read; and therefore I will not offer it to be proved, but the party that executed the Warrant it self, proves it to be under the Hand and Seal of my Lord of *Strafford*, he proves the express authority of it, which was to the effect I opened; three or four more, who saw and read it, proved the same: and that it was under the Hand and Seal of my Lord of *Strafford*, that accordingly it was executed upon divers of the Kings Subjects; it was proved by three witnesses expressly in the point, how by colour of this Warrant the Sergeant at Arms, and his Officers, sent Soldiers to lye in the Houses and Lands of the Kings Subjects; how the Owners were thereby forced out from their own Habitation; how their Goods were wasted and devoured, their Corn and Victuals eaten up, and the Soldiers never left them, as long as any part of their Estates remained to maintain them.

My Lord of Straffords defence is, *That it hath been used before his time in Ireland*; wherein he hath again mis-recited; for he did not offer a proof, nor a particle of a proof, that ever any man did know Soldiers laid upon any party, for refusing to appear to a Warrant, or for other contempt at Council-Table, before himself did it; but he offered to prove, *That formerly Soldiers were sent against Rebels, and that after they were declared to be Rebels, and that justly too*; and he proved an use and custom to force men to pay Contribution-money, due to the King, but that was by consent of the people, who granted a Contribution of 20000 *l.* a year, for increase of the Kings Revenue; and that it might not be upon Record in the Exchequer, and so claimed as due in time to come, they consented, that Soldiers should be laid upon them that refused it; and the word (*Consent*) is within the Statute of 18 H.6. Again, did he prove all manner of Rents were levied by Soldiers? no such thing; but such Rents as were designed for the payment of the Army: he proved by Sir Arthur Terringham, the laying of Soldiers once for the payment of a sum of Money; but Sir Arthur being demanded whether it were the King's Rents, or comprehended within the same general Rule, he could make no answer thereunto.

Your Lordships remember, he says *He did not know it, and therefore probably it was the Kings Rents*; and doubtless it was so.

But if he had produced Precedents, it could not be an authority for Treason, that if people did not appear to his Orders, he must levy War against the Kings Subjects; and for his extenuation of the War, that the same was of no great danger, there being not above five or six Soldiers laid at a time. I would to God, the people oppressed by it, had cause to undervalue it: I am sure four or six Musquetiers are as strong to oppress a man, as four thousand; so the matter of Fact is strongly and expressly proved. Besides, though there came not above four or five to a house, yet the authority given to the Sergeant was general; he might have brought more if he had listed: and in truth, he brought as many as the Estate of the party would maintain,

And as to the not producing of the Warrant, I have already answered it. If it were in the case of a Deed wherein men call for witnesses, it were something; but God forbid that the Treason should be gone, and the Traitor not questionable, if his Warrant can be once put out of the way.

The next Article which is laid to his charge, is, *For issuing out a Proclamation, and Warrant of restraint, to inhibit the Kings Subjects to come to the Fountain*, their Sovereign, to deliver their complaints of their wrongs and oppressions. Your Lordships have heard how he hath exercised his jurisdiction, and now he raises a battery to secure and make it safe. If he do wrong, perhaps the complaint may come to the Gracious Ears of a King, who is ready to give relief, and therefore he must stop these cries, and prevent these means, that he may go on without interruption; and to that end he makes Propositions here, *That the Kings Subjects in Ireland should not come over to make complaint against Ministers of State, before an address first made to himself*. It is true, he makes a fair pretence and shew for it, and had just cause of approbation, if he intended what he pretended; But as soon as he came into Ireland, what use made he of it? he ingrosses the proceedings of almost all the Courts of Justice into his own hands, and so pre-possesses the King by a colourable proposition, and prevents their coming over before they had made their address to himself, and then he becomes the wrong doer, and issues Proclamations for the hindring of the

King's Subjects to seek redress without his leave; which is as great a proof of his design, and as great an injury to the people, governed under a Gracious Prince, as a heart can conceive. And what his intention was in exhibiting this Proposition, it will appear in the sentence of a poor man, one *David*, who was censured, and most heavily Fined for coming over into *England* to prosecute complaint against my Lord of *Strafford*. It is true, that this was not the cause expressed, but this was the truth of the matter. Your Lordships remember a clause in the Order at Council-Board, whereby is set forth the cause wherefore the party is not sentenced, which I never saw in an order before, nor should now, but that my Lord foresaw there was danger in it, that he might be charged in this place for the fact; and therefore puts in negatively, why the party was not *censured*. *Clausula inconсульта inducit suspicionem*. And how defends he this Article? he sayes, *his predecessors issued Proclamations to hinder the Kings Subjects from going over, lest they should joyn with O-Neal, and Tirconnell beyond Sea, and so it might be dangerous to the State*; but because they may joyn with Foreigners, shall they therefore not come to the King to make just complaint? What this argument is, I refer to your Lordships judgments.

Then he pretends a former precedent, affirming that the like instructions were given to my Lord of *Faulkland*; but was there any, that none should come to their Sovereign, to make their just appeal if injured? Surely there was never any such Instruction before, and I hope never will be again.

The next *Article* is the Nineteenth: and now when he had so plentifully exercised his Tyranny over the Lives, the Liberty, and the Estates of the King's Subjects; A man would think he could go no further: But see a Tyranny exercised beyond that, and that is over the Consciences of men: hitherto he dealt with the *outward man*, and now he offers violence to the *inward man*, and imposes an Oath upon the Kings Subjects, and so exerciseth a Tyranny over the Consciences of men.

And setting aside the matter of the Oath, if he hath authority and power to impose such an Oath as he shall frame, he may by the same power impose any Oath to compell Consciences.

He pretends a Warrant from His Majesty to do it, but the Kings Ministers are to serve the King according to Law; and I dare be bold to say (and we have good reason to thank God for it) if any of the Kings Ministers tell him, that any Command he gives is against Law, there is no doubt but in his Goodness and Piety, he will withdraw his Command, and not enforce execution; and therefore if there were an error, the King is free, and the Ministers to be justly charged with it.

But there was no Command from the King to compel and enforce them to take the Oath by the power of the Star-Chamber, to commit them to prison, to impose heavy Fines, and tyrannize over them; all which he did in the Case of *Steward*.

And now one would have thought he had acted his part, when he had acted as much as lay in his own power; and yet he goes beyond this, he was not content to corrupt all the streams (which was not a diverting of the course, as he spoke in his answer; for he not only turned the course of the water, but changed the nature of it, converted it into poyson, a legal and just proceeding into a Tyrannical and Arbitrary Government, which is not turning, but corrupting of the clear and chrystal streams to bitterness and death.) But yet the Fountain remains clear, and perhaps when his hand is taken off, you shall have the streams run as pure and uncorrupt as ever they did. This is it troubles him, remove but this obstacle, and the work is perfect;

fect; and therefore now he will go about to corrupt the streams: if he can but infuse his poyson into the Kings heart, which is the Fountain, then all is done; and now he attempts that; and approacheth the Throne, endeavours to corrupt the Kings Goodness with wicked Counsels; but God be thanked he finds there too much Piety to prevail.

And therefore the next *Article* is that, that charges him to be an *Incendiary to the War betwixt the two Kingdoms*: and now I shall be bold to unfold the mystery, and answer his objection: *To what purpose should he be an Incendiary? were it not better to enjoy his Estate in peace and quietness, than have it under danger of a War?* Now your Lordships shall have the Riddle discovered.

The first thing he doth after his coming into *England* is, to incense the King to a War, to involve two Nations of one faith, and under one Sovereign, to imbrue their hands in each others Blood, and to draw Armies into the field.

That he was this Incendiary, give me leave to revive your Lordships memories with the proofs which will make it plain; and first give me leave to note unto your Lordships, that His Majesty, with much wisdom, did in *July 1639.* make a pacification with His Subjects, and even at the very heels of this pacification, when all things were at peace, upon the tenth of *September*, which was the next month but one, your Lordships remember the Sentence of *Steward* in the *Star-Chamber* of *Ireland*, for not taking the Oath; your Lordships may call to mind the language my Lord of *Strafford* was pleased to use to the Scots: when all was in quietness, he then calls them *no better than Traitors or Rebels*, if you will believe what the witness testifies, whom my Lord is pleased to call a Schoolmaster: And truly admit he were so, *because he is a Schoolmaster, therefore not to be believed*, is a *non sequitur*. And another Witness, one *Loftus* speaks to the words, though not in the same manner; but I say, the Tenth of *September*, when things were at peace and rest, when the King was pleased to be reconciled to them by that pacification, what boiled in his breast then, to the breaking forth of such expressions, I know not, unless it were an intention to be an Incendiary.

My Lords, I must say and affirm, and he hath not proved it to the contrary, that all this while (I am confident) there was not any breach of the pacification on either side, and it lyes on his part to prove there was: But the Parliament of *Scotland* then sitting, and making preparation for their demands in pursuance of the *Articles* of pacification, he coming over into *England* in *September*, immediately upon the pacification answers, *That he found things so distracted here, that it was fit the Scots should be reduced by force, if they could not be otherwise*: yet no breach appears, no War was denounced, there was no intention of a War: but see what harboured in his breast all the while?

The fourth of *December* following, my Lord *Traquair* made his relation to the Council of the Scots proceedings: and all this while there was no Demands brought by the Scots themselves, nor reason of their Demands brought by others, though they were not prepared; yet you have heard his advice was for an offensive War, and that the Demands were a just cause of the War. And though he pretends he said no more than what the rest of the Lords of the Council concurred with him in, I will joyn in issue with him in that, and if some of your Lordships be not satisfied, you have many noble Lords among you, from whom you may be satisfied that it is not so; I am sure he proves it not. It is true, in the proposition of the Demands, some

of the Lords of the Council did say, *That these Demands hypothetically, if the Scots did not give satisfaction by their reasons, were a just cause of War*; but not any Lord of the Council was of that opinion, that the very Demands, positively, without hearing of the reasons, were a just cause of War, but himself; and I believe the Noble Lords of the Council, their Consciences can tell them, and I believe will deliver it to the rest of the Peers, that I speak truth.

For *the offensive War*, he pretends a concurrence of the rest, but it was disapproved; many were for it upon these terms, *If they did not give reasons, and shew just cause for their Demands*; and many were against an *offensive War upon any terms*, and therefore herein he fixes that upon the Lords of the Council, which he cannot make good.

All this while his intentions are discovered by a matter precedent, but after the breach he discovers his anger further towards the Scottish Nation, and makes it his design to incense the King to this War.

My Lords, he is not at end yet, for he confesses himself that *he advised the King to call a Parliament*; and now I come to his *work of merit*, but it was to his destruction, and serves to prove this *Article* directly; for to what purpose was this Parliament called? *Exitus acta probat*; it was no sooner set, but within three weeks a *proposition is made for supply towards a War against the Scots*: Who was the cause of calling the Parliament? himself; and therefore who was the cause of this Proposition but himself? and so the calling of the Parliament is a concurring evidence of his being an Incendiary to put on the War; and it shall appear anon absolutely, that he was the occasion of it, though he thinks there be no proof of it.

Did not he go over into *Ireland*, and by his sollicitation there, Subsidies were granted by the Parliament, only, *to maintain this War, and to shew their ingagement in it*? and who was the occasion of drawing them on, I refer to your Lordships judgements, by the circumstances precedent.

Your Lordships heard his good opinion of the Scots, when he began to discourse with the Citizens touching Money, and their affording of the King supply, and seizing the Mint, *by giving them no better expositions than Rebels*; for, saith he, *you are more forward to help the Rebels here, than to pay the King his own*: I know not who he meant, but certainly the Scots were in his thoughts; so that from the beginning he incensed the War against them: First, he *exclaimed against them during time of peace*. He alleges in his Answer, *That things were found in such distraction, that it was fit the Scots should be reduced by force*: he gave advice precipitately without hearing the reasons, and not concurrent to the Council, *for an offensive War*; and putting all together, I refer it your Lordships judgement who is the Incendiary; for how can it be proved more clearly, unless it should appear under his Hand and Seal, proved by two or three witnesses?

Now, My Lords, how comes this to be his design? here the Mystery comes to be unfolded. Having thus incensed to the War, and ingaged the King to the uttermost, and having a Parliament now dissolved without supply, he sets up an *Idol of his own creation*, as a means to draw on his design, and that was *necessity*; necessity, is it that must enforce the King: what to do? to levy Money, to use his Prerogative, to raise supplies upon His Subjects without their consent, against their Will, necessity must be his Argument, and this War must be the occasion of that necessity, and without that, he cannot suggest to the Kings ear, or advise this necessity, till this be brought to pass.

And now he hath brought it to pass, he began in the One and twentieth, Two and twentieth, and Three and twentieth Article, to perswade the King, that *necessity hath surprized him, by the Parliaments deserting of him; that the Parliament had forsaken the King, in denying supply, and having tryed the affections of His people, he was loose, and absolved from all rules of Government; and had an Army in Ireland which he might employ, to reduce this Kingdom.*

That he spake these words to the King, part is proved by two concurrent Witnesses, that is, *that having tryed the affections of his people, he was now loose and absolved from all rules of Government;* which words are proved by two witnesses of eminent quality, that is, my Lord of Northumberland, and Sir Henry Vane: and truly, howsoever my Lord in his speech pretends, that *the most material words are proved but by one witness* (it seeming that he held it not a material charge, that he counselled the King that he was absolved from all Rules of Government) for my part, if your Lordships be satisfied those words were proved, I could willingly satisfy my own conscience in it, and make no great matter to quit the rest; for I know not how he could express it in higher terms, than that *the King was absolved from all rules of Government*, for then he might do what he would.

It is true, the latter words, *touching the Irish Army*, are expressly proved but by one witness, Mr. Secretary Vane; but are fortified again with such circumstances as make up more than one, yea, more than two other witnesses, if your Lordships will have the patience to have it represented, as it is proved.

For howsoever it be slighted by him, if your Lordships will call to mind the words of Sir George Ratcliffe, *his bosom friend* (to whom he had contributed without question, his advice in all causes) the said Sir George Ratcliffe expressed it before, and told some of his friends (supposing that he never should be called in question, and that the power of my Lord of Strafford had been enough to protect any thing he had done, and out of the abundance of the heart his mouth spake) *the King must now want no money; if he did, no body would pity him, now he had his sword in his hand.*

Sir Robert King proves it so. My Lord Ranalagh discovered the smock of the fire that he had just cause to suspect, and on good grounds, I am sure; and if the Commons of England had not just cause to suspect him (as I believe he is convinced they had good cause) what is the reason this suspicion should be entertained at that time, my Lord of Strafford being not then questioned for it? and yet my Lord Ranalagh should say, *Shall we turn our Swords upon our own bowels? Shall we bring this Army to turn the points of our blades upon that Nation from whence we were all derived?* and that was before any conference with Mr. Secretary Vane.

Sir William Penniman himself, his own witness and friend, says, at York, before my Lord of Strafford was questioned, *that there was a common fame of bringing the Army into England*, and there is something in that surely; and after all this, to produce one witness that expressly proves the very words spoken *in terminis*, as they be charged, if your Lordships put the whole together, see whether there be not more than one witness.

And, under favour, my Lord Cottington, if you call to mind his testimony, I must justify, he did declare, That he heard my Lord of Strafford tell the King, *That some reparation was to be made to the Subjects property;* which must inferre, *he had advised an Invasion upon the property;* else by no good coherence

coherence should a reparation be made. And that he testifies this, I must affirm, and most here will affirm it; and I think your Lordships well remember it: and that is an addition to it; for if your Lordships cast your eye upon the Interrogatory administred to my Lord Admiral, and my Lord Cottington, that very question is asked; so that his own conscience told him, he had advised something to invade upon the people, when he advised to a *restitution after things should be settled*: and so I refer it to your Lordships consideration, whether here be not more than one witness by far.

It is true, he makes objections to lessen this testimony; First, That *this Army was to be landed at Ayre in Scotland, and not here*; and this was declared to Sir Thomas Lucas, Mr. Slingsby, Sir William Penniman, and others. Secondly, That *others that were present when the words are supposed to be spoken, did not hear any such words*.

For the first; Perhaps the Army might be originally intended for Scotland, and yet this is no contradiction, but he might intend it afterwards for England; surely this is no Logick, that *because it was intended for one place, it could never be intended for another place*; so his allegation may be true, and the charge stand true likewise.

Beside, that it was intended originally for Scotland, what proof makes he? He told several persons of the design, but I will be tryed by himself, he told some, *it was for Scotland*, he told others *it was for England*; and why you should believe his telling on one side, more than on the other side I know not; though he pretends a reason of his several allegations, that *the world should not know his design*, but if you will not believe him one way, why should he be believed the other way? and if not the other way, why the first way?

For the Second, Several persons were present, when the words were spoken touching the Irish Army, and they were examined, and remember not the words; but one man may hear, though twenty do not hear; and this is no contradiction at all: for those persons whom he examined, the Lord Treasurer, Marquis Hamilton, my Lord Cottington did not hear the words that are proved by two witnesses, concerning the Kings being loose and absolved from rules of Government: and if they did not hear those words, no marvel they did not hear the other: and therefore that which he himself pretends to be a convincing testimony, is nothing at all; so that his objections are clearly taken away, and the single testimony fortified with testimonies that make above one witness, and so the words are fully proved.

But to fortify the whole, I shall handle all these Articles together; This design to subvert the Law, and to exercise an Arbitrary power above the Law in this Kingdom will (upon the proofs putting them altogether, and not taking them in pieces as my Lord of Strafford hath done) appear to have been harboured in his thoughts, and settled in his heart long before it was executed.

You see what his Counsels were, That the King having tryed the affections of his people, was loose and absolved from all rules of Government, and might do every thing that power would admit; and His Majesty had tryed all ways, and was refused, and should be acquitted of God and Man, and had an Army in Ireland, wherewith if he pleased he might reduce this Kingdom: so there must be a trial of his people, for Supply that is denyed, which must be interpreted, a *Defection by refusal*, and this refusal must give advantage of necessity, and this necessity must be an advantage to use his

Prerogative

Prerogative against the rule of the Law, and consent of the People; this is his advice, which shews that this very thing that happened, did harbour in his thoughts long before the breach of the Parliament, and the occasion of the Army.

Your Lordships have heard it confessed by himself, *That before this last advice, he had advised the calling of a Parliament*: To the Parliament a proposition of Twelve Subsidies was made for supply, and (which may be spoken with great assurance) before they had consulted, or given any resolution to that proposition, the Parliament was dissolved, upon a supposal that the Supply was denied. Now that this was pre-designed by my Lord of Strafford himself, I beseech you observe these things following, that is, *The words in the Two and twentieth Article, That His Majesty was first to try the Parliament, and if that did not supply him, then he would serve the King any other way.*

His words are proved by Mr. Treasurer, *That if the Parliament supplied him not, he would serve him any other way*; and this is before the Parliament set: now if your Lordships hear the proofs of my Lord Primate, (which my Lord of Strafford flights taking it singly) My Lord Primate before the Parliament was called, when my Lord of Strafford was in Ireland, and not yet come into this Kingdom, testifies, my Lords, saying, *That if the Parliament will not supply His Majesty, the King was acquitted before God and Man, if he took some other course to supply himself, though against the will of the Subjects.* I beseech your Lordships, observe how he prophesies these things must come to pass, and advised them accordingly.

My Lord Conway testifies, that before the Parliament sate, my Lord of Strafford said, *that if the Parliament would not supply His Majesty, the King was acquitted before God and Man, if he took another course to supply himself, though it were against the will of the Subject, and he doubts not but the Parliament would give, What? Twelve Subsidies*: and your Lordships very well remember, Twelve were propounded; but I beseech you, observe the coherence of all; the Parliament must be called; they must be tried, if they deny there is necessity, and this necessity is a Warrant for the King to proceed; so that my Lord of Strafford must be judged to be either a Prophet, or to have this design beforehand in his thoughts.

Now the Parliament being broken before answer to the Demand given, he vents his Counsel in the Three and twentieth Article, and how far it is proved, your Lordships have heard. Now comes *the Bullion to be seized, the Copper-money to be advised*, and now comes he to tell the King, *that the Aldermen of London must be put to Fine and Ransome, and laid by the heels, and no good would be done till some of them be hanged*, so you hear his advice; I beseech your Lordships observe what success this advice took; *Four Aldermen were instantly committed*, and then the Counsel of the Three and twentieth Article is fomented.

First, He foment the War, then there is a necessity, the defection of the Parliament must set the King loose from rules of Government, and now see whether the occasion of the War, the calling of the Parliament, the dissolving of it, be not adequate to what he propounded to himself, namely, to set up an *Arbitrary Government*.

Your Lordships remember how fresh my Lord of Bristols memory is, touching my Lord of Straffords opinion upon the dissolution of the Parliament; how he declared unto my Lord of Bristol instantly within three or four days after, *That the King was not to be mastered by the frowardness of his people, or rather of some particular persons*; and your Lordships remember

remember Sir George *Wentworths* words spoken the very day of dissolving the Parliament; which may be very well applyed as a concurrent proof to his intentions of bringing the Army into *England*. He was my Lords own Brother, that knew much of his Counsel, and his words are, *That the English Nation would never be well till they were conquered over again*. So my Lords, put all together, if he declared his own intentions, if actions, in executing this Tyrannical and Arbitrary Power, if Counsels of as dangerous consequence, in as high a strain as can be, be not a sufficient Evidence to prove an intention, and desire to subvert the Law, I know not what can prove such an interpretation: and now I refer it to your Lordships judgements, whether here be not a good proof of the Article laid to his chage,

My Lords, in the Seven and twentieth Article, he is *charged with levying of War upon the Kings people, by forcing them in Yorkshire to pay Money*; to prove they were so forced, you have heard by two witnesses, that Sergeant Major *Taworth*, by Musquetiers, four together in the Town, and one by one out of the Town, did compel them to pay the fortnights contribution, else they were to serve in person: That he did this by Warrant is likewise confessed by Sir *William Pennyman*: and whether this were an authority derived from, or commanded by my Lord of *Strafford*, that is the question; and my Lords, it is plainly proved, that it was commanded by my Lord of *Strafford*, for Sir *William Pennyman* himself being examined, alledged that the Warrant was made in pursuance of the relation, and direction made by my Lord of *Strafford*.

Your Lordships heard what my Lord of *Strafford* did say before-hand, as is proved by two witnesses, (Sir *William Ingram* and Mr. *Cholmley*) that this Money should be paid, or levied on the Subjects Goods; Then his Declaration to Sir *William Pennyman*, (in pursuance of which he made his Warrant) That it was the assent of the Lords of the great Council, that this Money should be levied; and taking all together, whether it fixes it not upon him to be the Author and Instrument, it rests in your judgements in point of fact: and so I suppose the Seven and twentieth Article rests on him, and so I shall conclude the Evidence produced on the behalf of the Commons.

And now give me leave to put your Lordships in mind of some Evidences offered by my Lord *Strafford* himself in his Answer, and in the passages of his Defence, for his clearing and justification, but tending directly to his condemnation,

I will enter upon some passages he mentioned to day, and often before; When he is charged with invading the *Estates of the Peers of the kingdom of Ireland, and determining them upon Paper Petitions in an Arbitrary way*: your Lordships have heard him speak it before, and repeat it this day, *That he did it out of compassion, for the more expeditious proceeding on behalfe of the poor against these mighty*: But then my Lords, I beseech you, compare some other part of his proceedings. Your Lordships remember the business of the Flax, which concerns the poor wholly and universally; and if compassion had been the rule and direction of his actions towards the poor, surely this would have been a just cause to have commiserated them in this case; but he exercised his power over them, and over them wholly, and over them universally: and therefore it shews, it is not his compassion to the poor, nor respect to the rich, or mighty, that will any way restrain or obstruct his

his ways, to his own Will. And therefore you may see what truth there is in his answer, by comparing one part of the charge with another, when the business of the *Flax* brought that calamity upon the Kings Subjects, that thousands of them perished for lack of Bread, and dyed in Ditches.

Secondly, Your Lordships have often heard him use a Rhetorical insinuation, wondring that he should be charged with words, and they strained so high as to be made Treason, to question his Life and Posterity, though the words might be spoken unadvisedly, or in discourse, or by chance: Your Lordships remember the Fifth Article, touching his proceedings against my Lord *Mountnorris*, where words were spoken in an ordinary discourse at dinner, and slight ones, God knows, of no consequence at all, such as another man would scarce have harkened after, and yet my Lord extends them to the taking away of my Lord *Mountnorris* his life; gets a sentence of death against him, and that against Law, with a high hand, in such a manner, as I think your Lordships have not heard the like; and therefore I beseech you, compare one part of his Answer with another, and see how ready he is to make use of any thing that may excuse himself; and yet when he comes to act his power, you see his exercise of it.

You have heard how he magnifies his Zeal for advancing the Kings Benefit and Revenue, and his care of his Service, and would shelter and protect himself under it, to justify an exorbitant action: but if your Lordships call to mind the business of the *Customs for Tobacco*, (which in truth were the Kings right and due, and a great profit was thereby advanced; and he trusted to advance it.) The King must loose of his former Rents in the case of Custom, and received a small Rent in the case of *Tobacco*, my Lord himself in the mean time imburling such vast sums of Money: where is then the discharge of his Trust? where is his care to advance the Kings Rents? to increase his Revenue? Compare that part of his Answer with this, and see what credit is to be given to his affirmation.

My Lords, throughout the passages of his discourse he insinuates, (and never more than this day) with the Peers of the Realm, magnifying them almost to Idolatry; and yet my Lords, when he was in his Kingdom in *Ireland*, and had power over them, what respect shewed he then to the Peers of the Kingdom, when he judged some to death, trampled upon others in misery, committed them to prison, and seized on their Estates; where then was the Peerage he now magnifies?

And to shew it was an insinuation for his own advantage, you may remember, when there was an unlawful Act to be committed, that is, the levying of Money in the North, What regard had he then to the Peers of the Kingdom, when he comes to justify and bolster up High Treason it self, under the name and authority of the Great Council, where most of the Peers of the Realm then were? and so by this time I know what credit your Lordships give to his words spoken, when he lies under your Mercy and Power: but what do I speak of the Peers of the Kingdom, and his using of them? My Lords, he spared not his Sovereign, His Majesty in His whole Defence; for being charged with offences of a high nature, he justifies those offences under the pretence, and under the authority of His Majesty, our Gracious King and Sovereign, even Murther it self, in the Case of *Denwit*, and my Lord

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Mountnorris. Treason it self in the Fifteenth Article by a Command in Ireland, and in the Seven and twentieth, by a pretended authority from His Majesty in the face of His People; he justifies my Lord *Mountnorris* his sentence by a Letter from His Majesty, *Denwits* Sentence by a Commission from His Majesty, and he read three or four clauses to that purpose.

My Lords, my Lord of *Strafford* doth very well know (and if he doth not know it, I have a Witness to produce against him, which I will not examine, but refer it to his own Conscience, that is, *The Petition of Right*) that *the Kings Servants are to serve him according to Law and no otherwise*: he very well knew if an unlawful act be committed, especially to a degree of Treason and Murder, the Kings Authority and Warrant produced, is no justification at all. So then, my Lords, to mention the Kings name, to justify an unlawful act in that way, can do him no good; and his own understanding knows, it may do the King harm, if we had not so Gracious a King, that no such thing can do harm unto.

But, my Lords, to produce the Kings Warrant to justify his actions under his Patent and Command, what is it else, but so far as in him lies, in the face of his people, to raise a cloud, and exhale a vapour? To interpose betwixt the King and his Subjects whereby the splendor of his Glory and Justice cannot be discovered to his people?

My Lords, what is it else, when the people make complaint against the Ministers (that should execute justice) of their oppression and slavery, and bondage? For the Minister, when he is questioned to justify this under the Kings Authority, what is it, I say, but as much as in that Minister lies, to fix this offence, to fasten this oppression upon the King himself, to make it to be believed, that the occasion of these their groans proceeded from His Sacred Majesty? yet God be thanked the strength of that Sun is powerful enough to dispel these vapours, and to disperse the cloud that he would have raised; but in the mean time, my Lord is nothing to be excused.

My Lords, he may pretend zeal to the Kings Service, and affection to His Honor, but give me leave not to believe it, since, when he is questioned by all the Kings people, and in the face of his people, and offences laid to his charge, which himself now confesses to be against Law; he should justify it under the Kings authority; that favours not of a good servant: I will say no more.

My Lords, he is charged with exercising a tyrannical power over the Kings people, and in his Defence your Lordships have often heard (and I may not omit it) that he shelters himself under the protection of the Kings Prerogative, though he be charged with Tyranny of the highest nature that may be: see then how foul and malignant an aspect this hath. My Lords, what is it else, but to endeavour, as much as in him lies, to infuse into the Kings heart an apprehension, that His Prerogative is so bottomless a Gulf, so unlimited a Power, as is not to be comprehended within the rules of Law, or within the bounds of Government? for else why should he mention the Prerogative, when he is charged to exceed the Law? What is it else, but as far as in him lies, to make the people believe (for I may not forget the words he hath used) *by his magnifying of the Prerogative, that it hath a special stamp of Divinity on it*; and that the other part of the Government that God

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pleases to put into the Kings hands, had not that stamp upon it? as if any thing done by one, was to be justified by authority derived from Heaven, but the other not.

These expressions your Lordships remember; and I may not omit to put your Lordships in mind of them; and I can expound them no otherwise than, as much as in him lies, to make the subject believe and apprehend, that which is the buckler and defence of his protection, to be the two-edged sword of his destruction, according to the Doctrine he Preached; and that that which is the Sanctuary of their Liberty, is the snare and engine of their slavery. And thus he hath cast a bone of contention, as much as in him lay, betwixt King and People, to make the Subjects loath that glorious Flower of his Crown, by fixing a jealousy in them, that it may be a means of their bondage and slavery.

But there is so much Piety and Goodness in the Kings heart, that I hope, upon fair understanding, there will be no such occasion; but no thanks to the party, that so much advanced the Prerogative in the case and condition he stands in, to justify that which is laid to his Charge of High Treason.

My Lords, I beseech you give me leave; there is no greater safety to Kings and People, than to have the Throne incircled with good Counsellors; and no greater danger to both, than to have it encompassed with wicked and dangerous ones; and yet I beseech you call to mind, how he hath attempted to deprive the Subject of all means to discover this danger, by insinuating to your Lordships, *what a dangerous thing it were, if Counsellors should be called in question for giving of Counsel: for who then (saith he) would be a Counsellor? where is your safeguard? where is the Kings service?* Is not this, as much as in him lies, to deprive the people of the means whereby they must make themselves happy, and whereby the King must be happy, that is, by his having good Counsellors about him? and yet he infuses that venom, that *the questioning of Counsellors is dangerous both to King and Peers, if it should be brought into example.* My Lords, for many years by-past, your Lordships know an evil spirit hath moved amongst us, which in truth hath been made the Author and ground of all our distractions, and that is necessity and danger: this was the bulwarke, and the battery that serves to defend all exorbitant actions; the ground and foundation of that great invasion of our Liberties and Estates, the judgement in the Ship-money, and the ground of the Counsel given of late to do any thing, and to perswade the King, *that he was absolved from all rules of Government;* and yet your Lordships have observed in the course of his defence, how often he hath raised this spirit, *that God be thanked hath been laid,* to the great comfort of King and Kingdom, by your Lordships, and all the Commons in Parliament. And when he stands under this question, and goes about to justify his exorbitant actions, how often hath he created this Idol again? and therefore I am afraid he discovers too much his own heart in it.

My Lords, I may not omit some other passages in his Defence, *How he hath cast scandals upon three Nations in this place;* that is, in his first day of Defence, when the Irish Remonstrance, made by all the Commons of Ireland, was produced by the Commons of England; he expressed in a passion, *that things were carried against him by faction and correspondence, and (if he had time he would make it appear) with a*

strong conspiracy. Here is a scandal cast upon the Parliament of *Ireland*, with a reflection on the Commons of *England*; howsoever, it is true, your Lordships may remember the recantation he made that day, which I will not omit, desiring not to lay any thing to his charge but what is true; but it is the reflection of a scandal that I cannot omit to put your Lordships in mind of; and the rather, because this Remonstrance, presented from the Parliament of *Ireland*, did bear date before my Lord of *Strafford* was charged here, which is very remarkable, viz. the 7th of November; and therefore, though he pretends a correspondence, certainly there could be none then, for he is not charged here till the Tenth.

And the same day, justifying a Sentence in the Castle-Chamber, your Lordships remember he affirmed, that *unless a strict hand were kept upon the Nation there, they would find it hard to prevent perjury, one of the most crying sins in Ireland.* Now to lay an aspersion upon the Subjects of *Ireland*, being under the Government of the same King with us, how fit this is to be done by a man in that condition that my Lord of *Strafford* is, I refer to your consideration.

Another passage I remember, whereby in his Defence he fell upon that Nation; in answer of which, I may not omit to do the service I owe to the Commons, for whom I am trusted, and that is, that talking of an Arbitrary and Tyrannical Government, in reference to some Orders of the Commons-House in *Ireland*, he used words to this purpose: *You talk of an Arbitrary Government, look upon these Orders, here is an Arbitrary Government:* and yet when he produced the Orders, they appeared to have so much justice and discretion in them, that he can lay nothing to the charge of them, though in a passion he is not backward to asperse them.

My Lords, If this Lyon (to use his own language) now that he is chained and muzzled, under the restraint and question of High Treason, will here take the boldness to vent this Language, and express this Malignity; How would he doe if he were unchained? How would he devour? How would he destroy? &c.

My Lords, Something concerns your Lordships; your Lordships remember, that he was not backward in his own answer, to *fix a Charge of High Treason upon the Lords of the Great Council*; and howsoever he hath affirmed this day, I must open it again, That the Charge of the Seven and twentieth Article he fixes in his Answer, to be *by consent of the Lords of the Great Council*, though he hath since recanted it; and yet you have heard him alledge, that he will stand and fall by the truth of his answer.

My Lords, I am now at an end. You have my Lord of *Strafford* here questioned for High Treason, for going about to subvert the Fundamental Laws of both Kingdoms, in defence whereof, your noble Ancestors spent their Lives and Bloods. My Lords, you are the Sons of those Fathers, and the same Blood runs in your veins, that did in theirs; and I am confident you will not think him fit to live, that goes about to destroy that which protects your Lives, and preserves your Estates and Liberties.

My Lords, You have the complaints of Three Kingdoms presented before you against this great person; whereby your Lordships perceive

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that a great storm of distemper and distraction hath been raised, that threatens the ruine and distraction of them all.

The Commons with much pain and diligence, and to their great expence, have discovered the *Jonas*, that is, the occasion of this Tempest.

They have still, and will discharge their Consciences, (as much as in them lies) to cast him out of the Ship, and allay this Tempest.

They expect, and are confident your Lordships will perfect the work, and that with expedition, lest with the continuance of the storm, both Ship, and Tackling, and Mariners, both Church, and Common-wealth be ruined and destroyed.

Saturday,

Saturday, May 1. 1640.

The King came to the House of Lords, and sent for the Commons thither, and made this Speech to both Houses.

I Had not any intention to speak of this business, which causes me to come here to day, which is the great Impeachment of the Earl of Strafford; But now it comes to pass, that of necessity I must have part in that Judgment: I am sure you all know that I have been present at the Hearing of this great business, from the one end to the other; that which I have to declare unto you is shortly this.

THAT in my Conscience I cannot condemn him of High Treason, It is not fit for me to argue the business, I am sure you will not expect it. A Positive Doctrine best comes out of the mouth of a Prince; Yet I must tell you Three great Truths, which I am sure no body can know so well as my self. 1. That I never had any intention of bringing over the Irish Army into England, nor ever was advised by any body so to do. 2. There never was any Debate before me, neither in publique Council, nor at private Committee, of the Disloyalty, and Disaffection of my English Subjects, nor ever had I any suspicion of them. 3. I was never Counsell'd by any, to alter the least of any of the Laws of England, much less to alter all the Laws; Nay, I must tell you this, I think no body durst be ever so impudent to move me in it, for if they had, I should have put a Mark upon them, and made them such an example, that all Posterity should know my intention by it; for my intention was ever to Govern according to the Law, and no otherwise.

I desire to be rightly understood, I told you in my Conscience I cannot Condemn him of High Treason; yet I cannot say I can clear him of misdemeanor: Therefore I hope that you may find a way, for to satisfy justice and your own fears, and not to press upon my Conscience. My Lords, I hope you know what a tender thing Conscience is. Yet I must declare unto you, that to satisfy my People I would do great matters. But in this of Conscience, no fear, no respect whatsoever, shall ever make me go against it. Certainly, I have not so ill deserved of the Parliament at this time, that they should press me in this tender point, and therefore I cannot expect, that you will go about it.

Nay, I must confess for matter of misdemeanor, I am so clear in that, that though I will not chaulk out the way, yet let me tell you, that I do think my Lord of Strafford, is not fit hereafter to serve me or the Common-wealth in any place of Trust, no not so much as to be a High-Constable: Therefore I leave it to you my Lords, to find some such way as to bring me out of this great streight, and keep your Selves and the Kingdom from such Inconveniences. Certainly, be that thinks him guilty of High Treason in his Conscience, may Condemn him of Misdemeanor.

The House of Commons as soon as they returned, seemed to be much discontented with what the King had spoken, and immediately Adjourned till Monday following, on which day being the Third of May Mr. *Pim* makes known to the House, that there are divers Informations given of desperate Designs, both at home and abroad, against the Parliament and the Peace of the Nation, and that the persons engaged in it, are under an oath of Secrecie, that there is an endeavour to disaffect the Army, not only against the proceedings of the Parliament, but to bring them up against the Parliament: That there is a design upon the *Tower*; that there is an endeavour for the Earl of *Strafford* to escape; That those Combinations at home, have a Correspondency with practises abroad; and that the French are drawing down their Forces in all haste to the Sea-side, and that there is cause to fear their intent is upon *Portsmouth*; That divers persons of Eminency about the King (as by good Information appears) are deeply engaged in the Plot: That it is necessary the Ports be stopt; and that His Majesty be desired to Command, that no person attending upon the King, Queen, or Prince, do depart without leave of His Majesty, with the humble Advice of His Parliament.

The Commons hereupon fell into serious debate of this matter, and the same day came to a Resolution of taking a Protestation, which was accordingly taken by the Speaker, and about 300 Members then present, Man by Man.

WE the Knights, Citizens, and Burgesses of the Commons-House in Parliament, finding to the grief of our hearts, that the Designs of the Priests and Jesuits, and other Adherents to the See of *Rome*, have of late been more boldly and frequently put in practise than formerly, to the undermining and danger of the true Reformed Protestant Religion, in His Majesties Dominions established: And finding also, that there hath been, and having just cause to suspect there still are, even during the Sitting in Parliament, endeavours to subvert the Fundamental Laws of *England* and *Ireland*, and to introduce the exercise of an Arbitrary and Tyrannical Government, by most pernicious and wicked Counsels, Practises, Plots, and Conspiracies; and that the long intermission, and unhappier breach of Parliaments, hath occasioned many illegal Taxations, whereby the Subjects have been prosecuted and grieved. And that divers Innovations and Superstitions have been brought into the Church, Multitudes driven out of His Majesties Dominions, Jealousies raised, and fomented between the King and his people: A Popish Army levied in *Ireland*, and two Armies brought into the Bowels of this Kingdom, to the hazard of His Majesties Royal Person, the Consumption of the Revenue of the Crown, and the Treasure of this Realm. And lastly, finding the great causes of jealousy, that endeavours have been, and are used, to bring the English Army into a misunderstanding of this Parliament, thereby to encline that Army by force to bring that Army to pass those wicked Counsels; have therefore thought good to joyn our Selves in a Declaration of our united affections and Resolutions, and to make this ensuing Protestation.

The House of Commons Adjourned upon this Speech of the Kings, in some dissatisfaction.

May the 3. the Commons having a Plot discovered, fall into the Debate thereof.

And the same day Resolve upon a Protestation.

The Preamble to the Protestation.

The

The Protestation.

I A. B. Doe in the presence of God Promise, Vow, and Protest, to maintain and Defend, as far as lawfully I may with my Life, Power, and Estate, the true Reformed Protestant Religion, expressed in the Doctrine of the Church of England, against all Popery, and Popish Innovation within this Realm, contrary to the said Doctrine, and according to the Duty of my Allegiance, I will Maintain and Defend His Majesties Royal Person, and Estate.

As also the Power and Priviledge of Parliaments, the lawful Rights and Liberties of the Subjects; And every Person that shall make this Protestation, in whatsoever he shall do, in the lawful pursuance of the same; And to my power, as far as lawfully I may, I will oppose, and by all good ways and means endeavour, to bring to condigne punishment all such as shall by Force, Practise, Counsels, Plots, Conspiracies, or otherwise do any thing to the contrary in this present Protestation contained. And further, That I shall in all just and Honourable ways endeavours to preserve the Union and Peace betwixt the Three Kingdoms of England, Scotland, and Ireland, and neither for Hope, Fear, or any other Respects, shall relinquish this Promise, Vow, and Protestation.

This Protestation was read by Mr. Mainard. Here followeth the Names of the Members of the House of Commons, who took the same, May 3. 1640. viz.

Will. Lenthall, Esq; Speak.

Edward Hide.

George L. Digby.

Lord Faulkland.

Sir John Culpepper.

John Selden.

Orlando Bridgeman.

Sir William Pennyman.

Sir Henry Herbert.

Sir Tho. Fanshaw.

Sir William Widdrington.

Sir Fredreick Cornwallis.

Robert Holborne, Esq;

Tho. Chicheley, Esq;

Sir George Wentworth.

William Mallory, Esq;

Jo. Bellasis, Esq;

Sir Guy Palmes.

Edm. Waller, Esq;

Sidney Godolphin, Esq;

Sir Nick. Slany.

Sir Hen. Slingsby.

Tho. Jermin, Esq;

Sir Tho. Peyton.

Sir Philip Musgrave.

Sir Patricius Curwin.

Sir John Stowel.

Sir John Strangways.

Sir John Paulet.

Sir Rich. Wynn.

Tho. Tomkins, Esq;

Arthur Capel, Esq;

James L. Compton.

Sir Ralph Hopton.

Geofrey Palmer, Esq;

Jo. Vaughan, Esq;

Edw. Montague, Esq;

Geo. Montague, Esq;

Will. Plydell, Esq;

Sir John Paulet.

Charles Price, Esq;

Herbert Price, Esq;

Sir Ralph Sidenham.

Fitzwilliam Cognisby, Esq;

Baptist Noel, Esq;

Sir Roger Palmer.

John Coventry, Esq;

Edw. Seymor, Esq;

Sir Arthur Ingram.

Sir Tho. Ingram.

Sir

Sir Edw. Verney.
 Sir Ralph Verney.
 Erancis Newport, Esq;
 Ben. Weston, Esq;
 Lord Mansfield.
 Sir William Carnaby.
 Sir Nicholas Slanings.
 Jo. Craven, Esq;
 William Constantine, Esq;
 Sir Edw. Deering.
 Sir Geo. Dalston.
 Sir Tho. Bowyer.
 Jo. Hamden, Esq;
 Henry Pelham, Esq;
 Sir Tho. Widdrington.
 Sir Henry Herbert.
 Sir Edw. Bainton.
 James Cambel, Esq;
 Sir Tho. Heale.
 Sir Henry Anderson.
 Sir Harbottle Grimston:
 Sir Robert Pye, Senior.
 Ferd. L. Fairfax.
 Sir Henry Mildmay.
 Sir William Armyn.
 Sir Roger North.
 Sir Walter Deaveraux.
 Tho. Hatcher, Esq;
 Sir Chr. Telverton.
 William L. Russel.
 Sir Philip Stapleton.
 Sir Henry Cholmly.
 Sir John Hotham.
 John Pym, Esq;
 Sir Ben. Rudyard.

Herbert, Esq;
 Digby, Esq;

Sir Gilbert Gerrard.
 Lord Ruthen.
 Sir Nevil Pool.
 Denzil Hollis, Esq;
 John Maynard, Esq;
 Sir Robert Harly.
 John Glyn, Esq;
 Sir Tho. Barrington.
 William Stroud, Esq;
 Nathan. Fines, Esq;
 Henry Martin, Esq;
 John Bodvil, Esq;
 Sir Fran. Knoles.
 Rich. Shettlesworth, Esq;
 John Moor, Esq;
 Sir Simon D'Ewes.

Sir John Wray.
 Sir Chr. Wray.
 Sir Martin Lomly.
 Herbert Morly, Esq;
 Tho. L. Grey,
 Rog. Burgoine, Esq;
 Sir Edw. Hungerford.
 Sir John Curson.
 Will. Perepoint, Esq;
 John Marstal, Esq;
 Hugh Owen, Esq;
 Norton Knatchbold, Esq;
 Sir Ed. Hales.
 Sir Ed. Master..
 John Cowcher, Esq;
 Sir William Strickland.
 Sir Edw. Boys.
 Sir Tho. Walsingham.
 Sir Peter Wrath.
 Tho. Maleveror, Esq;
 Edw. Bainton, Esq;
 Oliver Cromwel, Esq;
 Sir Gilbert Pickering.
 Will. Whittaker, Esq;
 Mich. Oldsworth, Esq;
 Sir John Harrison.
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 Isaack Penington, Esq;
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 Ed. Bagshaw, Esq;
 Sir Walter Smith.
 Rich. Harding, Esq;
 Bulstred Whitlock, Esq;
 Will. Price, Esq;
 Henry Lucas, Esq;
 Gilbert Willington, Esq;
 Sir Tho. Huchinson.
 Sir Will. Morly.
 Sir Henry Bellingham.
 Sir John Frankland.
 Sir Job. Clotworthy.
 Sir Edw. Munford.
 Will. Kage, Esq;
 John Northcot, Esq;
 Sir Tho. Middleton.
 Sir John Salisbury.
 Sir Ro. Nappier.
 Tho. Lower, Esq;
 Fran. Gerrard, Esq;
 Perigrin Pelham, Esq;

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Tho.

Tho. Fountain, Esq;
 Hen. Vernon, Esq;
 Lord Lisle.
 Ed. Dawx, Esq;
 Ro. Scowen, Esq;
 Sir Dudly North.
 Lawrance Whitaker, Esq;
 Sir Humphry Tuston.
 Henry Heyman, Esq;
 Tho. Hiblethwait, Esq;
 Arthur Jones, Esq;
 Will. Bell, Esq;
 Jo. Harvy, Esq;
 Jo. Ash, Esq;
 Geo. Gallop, Esq;
 Jo. Nash, Esq;
 Edw. Ash, Esq;
 Rich. seaburn, Esq;
 Cornelius Holland, Esq;
 Edm. Dunch, Esq;
 Rich. Barwis, Esq;
 Humph. Hook, Esq;
 Ro. Trelawny, Esq;
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 John Goodwin, Esq;
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 Jo. White, Esq;
 Sir Ed. Griffin.
 Rich. Albrough, Esq;
 Dr. Sam. Turner.
 Ral. Snead, Esq;
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 Poynings Moore, Esq;
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 Peter Venebles, Esq;
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 John Harris, Esq;
 Jo. Moston, Esq;
 Peter Leigh, Esq;
 Dr. Tho. Eaden.
 Will. Glanvil, Esq;
 Arthur Goodwin, Esq;
 Edw. Owner, Esq;
 Tho. Toll, Esq;
 John Polwhil, Esq;
 Simon Thelwal, Esq;
 Oliv. St. John Regis Sol.
 Sir Will. Allynson.
 Jo. Crew.
 Rich. Catelin, Esq;
 Ro. Goodwy, Esq;
 Jo. Blakeston, Esq;

Sir Will. Brereton.
 Miles Corbet, Esq;
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 Sir Rich. Vivion.
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 Rich. Kingsly, Esq;
 Ralph Ashton, Esq;
 Will. Fitzwilliams, Esq;
 Henry Bellasis, Esq;
 Sir Edw. Ascue.
 Sir Edm. Fowel.
 Sir Jo. Price
 Rich. Boyle, Lord Dungan-
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 Edw. Pool, Esq;
 Roger Hill, Esq;
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 Edw. Prideaux, Esq;
 Giles Green, Esq;
 Dennis Bond, Esq;
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 Will. Pewrifo, Esq;
 Will. Spurflow, Esq;
 Simon Snow, Esq;
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 Humphrey Salway, Esq;
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 Gervis Clifton.
 Will. Herbert, Esq;
 John Woogan, Esq;
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 John Arundel, Esq;
 Jona. Rasbly, Esq;
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Theobald Gorge, Esq;
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 Robert Sicil Esq;
 Sir William Litton.
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 Sir An. Nichols.
 John Broxam, Esq;
 John Alured, Esq;
 Geo. Buller, Esq;
 James Fines, Esq;
 Nich. Weston, Esq;
 Sir Beauchamp St. John.
 Sir Richard Anslow.
 Sir Jo. Corbet.
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 Sir Jo. Parker.
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 Sir Ambrose Brown.
 Sir Sam. Owfield.
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 Alex. Carew, Esq;
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 Simon Norton, Esq;
 Samson Evers, Serj. at Law.
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 John Alford, Esq;
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 Tho. Cook, Esq;
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 John Griffith, Esq;
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 Sir Arth. Hawelrig.
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 Ro. Wallop, Esq;
 James Rivers, Esq;
 Will. Haveningham, Esq;
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 John Button, Esq;
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 Sir Hen. Worlly.
 Hen. Darly, Esq;
 Valentine Walton, Esq;
 Sam. Vassal, Esq;
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 Jo. Merrick, Esq;
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 Will. Marlet, Esq;
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 Sir Ed. Littleton.
 Sir And. Ludlow.
 Rich. Harman, Esq;
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 Sir John Draidon.
 Will. Ellis, Esq;
 Will. Thomas, Esq;
 Jo. Pine, Esq;
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 Godfrey Boswell, Esq;
 Antho. Staply, Esq;
 Jo. Moyle, Esq;
 Will. Hay, Esq;
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Rob. Crooke, Esq;
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 Sir Tho. Pelham.
 Ben. Valentine, Esq;
 Sir Tho. Fanshaw.
 Matthew Cradock, Esq;
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 Sir Will. Dalson.
 Sir Tho. Woodhouse,
 Francis Godolphin, Esq;
 Framlingham Gaudy, Esq;
 Anthony Irby, Esq;
 Lord Wenman.
 John Lowry, Esq;
 Sir Tho. Danby.
 John Eveling, Esq;
 ——— Long, Esq;
 George Parry, Esq;
 Will. Morgan, Esq;
 Walter Kirk, Esq;
 Sir Tho. Parker.
 ——— Grantham, Esq;
 ——— Tailor, Esq;
 John Trenchard, Esq;

Rob. Sutton, Esq;
 John Whistler, Esq;
 An. Hungerford, Esq;
 Tho. Eversfield, Esq;
 George Searl, Esq;
 Cha. Baldwin, Esq;
 Rich. Whitehead, Esq;
 Gerrard Napier, Esq;
 Hen. Garton, Esq;
 Mich. Noble, Esq;
 Serjeant Creswel.
 Sir John Holland.
 Sir Will. Ogle.
 Sir Charles Gros.
 Sir Geo. Stonehouse.
 Ro. Hurst, Esq;
 Will. Basset, Esq;
 Ralph Godwin, Esq;
 Ro. Nichols, Esq;
 Sir Er. Knowles.
 Nathan. Hollow, Esq;
 Ambros Mannaton, Esq;
 Ro. Walker, Esq;
 Sir Rich. Brown.

The Commons send a Message to the Lords, concerning the Plot.

And desire a Select Committee to take Examinations upon Oath.
 And that no Servant of the King or Queens Majesty, departs the Kingdom till they be examined.
 And sent a Letter to the Army, to assure them of the Parliaments care of them.
 The Commons pass several Resolves.

A Message was immediately sent to the Lords to acquaint them, that the Commons had just cause and ground to suspect, that there hath been, and still is a secret practise, to discontent the Army with the proceedings of the Parliament, to ingage them in some design of dangerous consequence to the State, and by some mischievous ways, to prevent the happy success and conclusion of this Assembly, and to desire their Lordships, that a Select Committee might be appointed to take the Examinations upon Oath, concerning this desperate Plot and Design, in the presence of some of the Commons, and to move His Majesty in the name of the Parliament, that upon this great and weighty occasion, no Servant of His Majesty, the Queen, or Prince, may depart the Kingdom without leave of his Majesty, with the Advice of His Parliament, until they appear and be examined. And the Commons immediately agreed upon a Letter to the Army, and sent it away by an Express, to assure them of the care the Parliament took, to provide Moneys for them, and did not doubt but the Army will give a fair testimony of their affections to the Parliament, notwithstanding the evil deportments of some persons, who have endeavoured to discontent them.

At the same time the Commons passed several Resolves, in order to the security of the Nation, viz. That strict enquiry be made what Papists, Priests, and Jesuits, be now about the Town; That the 1500 Barrels of Powder going to Portsmouth may be stayed. That the Forces in Wiltshire and Hampshire be drawn towards Portsmouth. And the Forces in Kent and Sussex towards Dover: And they did declare, that whosoever should give Counsel or Assistance, or joyn any manner of way, to bring any Forreign Force into the Kingdom, unless it be by Command from His Majesty, with consent of both Houses of Parliament, shall be adjudged and reputed as publique Enemies to the King and Kingdoms.

These

These Resolves the Commons made known to the Lords for their concurrence, and also desired them to move His Majesty for the stop of the Ports; and that the Lord Admiral should place such Trusty Commanders in the Ships, for the security of the Nation, as they could confide in; in all which, the Lords did most readily concur.

The Commons did further communicate unto the Lords, the *Protestation* which they had taken in their house, desiring the Lords it might also be taken by every Member of their House: It was sent to the House of Lords by Mr. *Hollis*, who at the delivery thereof, did (amongst other passages) express himself to this effect;

MY LORDS,

THe Knights, Citizens, and Burgeses of the House of Commons, having taken into their serious Consideration, the present State and Condition of this Kingdom; they find it surrounded with variety of pernicious, and destructive Designs, Practises and Plots against the well being of it, Nay, the very Being of it, and some of those designs hatched within our own Bowels, and Viper-like, working our own destruction. They find Jesuits and Priests conspiring with ill Ministers of State, to destroy our Religion; they find ill Ministers conjoynd together, to subvert the Laws and Liberties; they find obstructions of Justice (which is the Life and Blood of every State) The Parliament of late years have been like the Fig-tree in the Gospel, without Efficacy, without Fruit, commonly taken away, as *Elias* was with a whirlwind, never coming to any maturity.

The same ill Councils which first raised that storm, and almost shipwrackt the Common-wealth, do still continue, they blow strong like the East wind, that brought the Locusts over the Land; Is it not time then my Lords, that we should unite and concentrate our selves, and defeat the Counsels of these Achitophels, which would involve us, our Religion, our King, our Laws, our Liberties, all that can be near and dear unto an honest Soul, in one universal and general desolation, to defeat I say, the Counsels of such Achitophels, the Knights, Citizens, and Burgeses of the House of Commons (knowing themselves to be specially intrusted with the preservation of the whole, and in their Conscience persuaded, that the dangers are so eminent, as they will admit of no delay) have thought fit to declare their united affections, by entering into an Association amongst themselves, by making a Solemn Protestation and Vow unto their God, that they will unanimously endeavour to oppose and prevent the Counsels and Counsellors, which have brought upon us all these Miseries and the Fears of greater, to prevent the ends, and bring the Authors of them to condigne punishment, and thereby discharge themselves the better before God and Man.

Here the Protestation was read unto the Lords, together with the Grounds and Reasons which induced the House of Commons to make it, which are prefixed before it, by way of Preamble.

The Kings Speech on Saturday last to both Houses, being publicly known in the City, rumours were spread abroad, concerning desperate Plots and Designs against the Parliament, which occasioned multitudes of people to resort the Monday following being May 3. to both Houses of Parliament, in such a Confluence as hath not been usual; they tendered Petitions to both Houses, crying *Justice, Justice* against the Earl of *Strafford*, and when the Houses arose, they departed.

These Resolves and the Protestation communicated to the Lords.

Mr. *Hollis* his Speech in a Message to the Lords about the Plot.

Multitudes of people flock to Westminster crying *Justice, Justice, &c.*

Tuesday

The people assemble again in multitudes, which the Lords communicate to the Commons at a Conference.

And communicates the Petition of the multitude, as followeth.

Desiring Justice and Execution upon the Earl of Strafford. To be secured against Plots.

And against a Garrison newly put into the Tower.

To make way for the Earl of Strafford's escape.

The Lords send Six Peers to the Tower, to inquire of this business. The Lieutenant said, he had His Majesties Command to receive 100 men

The Lords at the Conference declared, That the Tumults hindered their proceeding upon the Bill of Attainder. The Lords took the Protestation.

Tuesday the 4th of May, the Lords desired a Conference with the Commons, which was managed by the Lord Privy Seal, who spake to this effect:

"That the occasion of the Conference was so visible, that he should not need to say more of it, the multitudes without bespoke the business and matter of it; That which he had to say was by Command from the King to the Peers, to be communicated to both Houses of Parliament; That His Majesty takes notice, that the People do assemble in such unusual numbers, that the Council, and Peace of the Kingdom may be thereby interrupted, and therefore as a King that loveth Peace, and taketh care, that all proceedings in Parliament may be free and in a peaceable manner, he desires that these Interruptions may be removed; and wisheth both Houses to devise a course, how the same may be done.

At the same time the Lord Privy Seal communicated to the Commons, a Petition, which the Lords had the day before received, from the multitude of people that flock'd together in the *Palace-yard*, which was to this effect:

"That whereas your Petitioners did yesterday petition, for the redress of many Grievances, and for the execution of Justice upon the Earl of *Strafford*, and other Incendiaries, and to be secured from some dangerous Plots and Designs on foot; to which your Lordships have this day given Answer, that you have the same under present consideration; Your Petitioners do render humble thanks: But forasmuch as your Petitioners understand, that the *Tower of London* is presently to receive a Garrison of Men, not of the *Hamlets*, (as usually they were wont to do) but consisting of other persons, under the Command of a Captain, a great Confident of the Earl of *Strafford*, which doth increase their fears of the suddain destruction of King and Kingdom; wherein your Lordships and Posterity are deeply interested, and this is done to make a way for the escape of the Earl of *Strafford*, the grand Incendiary.

"They humbly pray that instant course may be taken for the discovery thereof, and that speedy execution of Justice be done upon the Earl of *Strafford*.

Whereupon the Lords sent six Peers of their House to the *Tower*, to understand what truth there was in this Information, and to demand of the Lieutenant who chose those men to be lodged in the *Tower*, whether he was privy to it himself, and what Order he had to receive them, and what

Captain was to Command them? To the two first, he said he was wholly ignorant, and for the Third he said, he had His Majesties Command, to receive One hundred men into the *Tower*, and Captain *Billingsly* to Command them, and to receive only such men as he should bring unto him; but now understanding their Lordships Order, he did promise, that no other Guard should come into the *Tower*, unless it were the *Hamlet-men*.

The Lords did further declare at the Conference, that they were drawing to a conclusion of the Bill of *Attainder* of the Earl of *Strafford*, but were so encompassed with multitudes of People, that their Lordships might be conceived not to be free, unless they were sent home, whose flocking hither was the only hindrance to the dispatching of that Bill: and therefore desired the Commons to joyn with their Lordships, to find out some way how this Concourse about both Houses might be avoided. And then they debated the Protestation, and passed it, and took the same.

After

After that the Commons returned to the House, Doctor *Burges* was desired to acquaint the Multitude with the Protestation, which both Houses had taken, which being read by him, and also made known unto them, that the Parliament desired, that they would return home to their houses, they forthwith departed.

And the multitudes departed.

The said Protestation was afterward tendred to the whole Kingdom, with this intimation, that whosoever refused to take it, should be noted as disaffected to the Parliament.

The Commons forthwith ordered the bringing in of a Bill, for the continuance of this present Parliament, that it might not be Dissolved without the consent of both Houses, which was read the First and Second time, and committed.

A Bill for the continuance of the present Parliament, twice read.

That day the Earl of *Strafford* writ this ensuing Letter to His Majesty.

May it please Your Sacred Majesty,

I T hath been my greatest grief in all these Troubles, to be taken as a person which should endeavour to represent and set things amiss between Your Majesty and Your People, and to give Counsels tending to the disquiet of the Three Kingdoms.

The Earl of Straffords Letter to the King.

Most true it is, (that this mine own private Condition considered) it had been a great madness, (since through Your Gracious Favour I was so provided) as not to expect in any kind to mend my fortune, or please my mind more, than by resting where Your bounteous Hands had placed me.

Nay, it is most mightily mistaken; for unto your Majesty it is well known, my poor and humble Advices concluded still in this, That Your Majesty, and Your People could never be happy, till there were a right understanding betwixt You and them; and that no other means were left, to effect and settle this happiness, but by the Counsel and Assent of Your Parliament, or to prevent the growing Evils of this State, but by intirely putting Your self in this last resort, upon the Loyalty and good Affections of Your English Subjects.

Yet such is my misfortune, that this Truth findeth little credit; yea, the contrary seemeth generally to be believed, and my self reputed as one who endeavoured to make a separation between You and Your People; under a heavier censure than this, I am perswaded no Gentleman can suffer.

Now I understand the minds of Men are more and more incensed against me, notwithstanding Your Majesty hath Declared, That in Your Princely opinion I am not Guilty of Treason, and that You are not satisfied in Your Conscience, to pass the Bill.

This bringeth me in a very great streight, there is before me the ruine of my Children and Family, hitherto untouch'd in all the Branches of it, with any foul crime: Here are before me the many ills, which may befall Your Sacred Person and the whole Kingdom, should Your Self and Parliament part less satisfied one with the other, than is necessary for the preservation both of King and People: Here are before me the things most valued, most feared by mortal men, Life or Death.

To say Sir, that there hath not been a strife in me, were to make me less man, than, God knoweth, my Infirmities make me; and to call a destruction upon my self and young Children, (where the intentions of my heart at least have been innocent of this great offence) may be believed, will find no easy consent from Flesh and Blood.

But with much sadness I am come to a Resolution of that, which I take to be best becoming me, and to look upon it, as that which is most principal in it self;

self, which doubtless is the prosperity of Your Sacred Person, and the Commonwealth, things infinitely before any private mans interest.

And therefore in few words, as I put my self wholly upon the Honor and Justice of my Peers, so clearly, as to wish Your Majesty might please to have spared that Declaration of Yours on Saturday last, and intirely to have left me to their Lordships; So now to see Your Majesties Conscience at liberty, I do most humbly beseech Your Majesty for prevention of evils, which may happen by Your refusal to pass this Bill; and by this means to remove (praised be God) I cannot say this accursed (but I confess) this unfortunate thing, forth of the way towards that blessed agreement, which God I trust, shall ever establish between You and Your Subjects.

Sir, My Consent shall more acquit you herein to God, than all the World can doe besides; To a willing man there is no injury done, and as by Gods Grace I forgive all the World, with a calmness and meekness of infinite contentment to my dislodging Soul: So Sir, to you I can give the life of this world, with all the chearfulness imaginable, in the just acknowledgment of your exceeding favours; and only beg, that in Your Goodness, You would vouchsafe to cast Your Gracious regard upon my poor Son, and his Three Sisters, less or more, and no otherwise than as their (in present) unfortunate Father, may hereafter appear more or less guilty of this death. God long preserve Your Majesty.

Tower, May 4.
1641.

Your Majesties most Faithful,

And Humble Subject,

And Servant,

STRAFFORD.

A great Hubbub in the City.

Wednesday the 5th of May there happened to be a strange Hubbub in the City, upon a false Alarm, That the Parliament-House was beset, and on fire, and all their lives in danger, which occasioned such running up and down in a confused manner, to come to protect them, that the like hath scarce been seen. This Hubbub and Alarm happened upon this occasion, Sir Walter Earl was making a Report to the House of some Plot and Design to blow up the House of Commons; Whereupon, some Members in the Gallery stood up, the better to hear the Report, and Mr. Moyle of Cornwall, and Mr. Middleton of Suffex, two persons of good bigness, weighed down a board in the Gallery, which gave so great a crack, that some Members thought that it was a Plot indeed; and Sir John Wray speaking out, he smelt Gunpowder, hastening back out of the Gallery; some Members and others in fear, running out of the House, frightened people in the Lobby, who ran into the Hall, crying out, *The Parliament House was falling, and the Members were slain, and the people running in a hurry through*

through the *Hall*, Sir Robert Mansel drew his Sword, bid them stand for shame; he saw no Enemy to hurt the Parliament, nor heard no noise of the fall of the Parliament-House; but some of them hastened by Water from *Westminster*, and carried the Alarm into *London*, which occasioned so great a resort of People in multitudes to *Westminster*, to save the Parliament, and one Regiment of Trained-Bands, Commanded by Colonel *Manwaring*, upon beat of Drum, were instantly Armed, and marched as far as *Covent-Garden* (beyond their Liberties) to secure the Parliament, but finding the Alarm false, they returned again. The same day the Commons passed the Bill for the continuance of the present Parliament, and carried the same up to the Lords.

The House of Commons commanded all their Members to attend the House, and not to depart the Town.

The next day the Committee appointed to joyn with the Lords, for taking Examinations concerning the Plot, did acquaint the House, that 6 or 8 of the chief Conspirators were fled, of which Mr. *Henry Jermin*, and Mr. *Henry Piercy*, Members of the House, were two, and that they were gone towards *Portsmouth*; Upon which Report, present Information came, that the Queen was preparing to go to *Portsmouth*, thereupon both Houses had a Conference, and agreed to move Her Majesty to stay Her journey for the security of Her Person, Her Majesty not knowing what danger she might be exposed to in those parts: In the mean time, One Lord and Two Commoners were dispatch'd to *Portsmouth*, with private Instructions, to propose certain Queries to the Governor there, and to take further care for the security of the Place and Haven of such Importance, and they took an Oath of Secrecie, as those Lords and Commons had done, who were appointed to examine the Plot.

Conspirators fled.

The Queen designs to goe to *Portsmouth*.

His Majesty was desired by both Houses, to issue out a Proclamation, for the calling in Mr. *Peircy*, and Mr. *Jermin* within a time limited, which was accordingly granted. And the Lords were desired by the Commons, to hasten the Bill of Attainder of the Earl of *Strafford*.

Proclamation to call in the Conspirators.

To prevent further discontents in the Army, this Letter was sent by Order, to Sir *Jacob Ashly*, and Sir *John Conyers*, to be communicated to the Army in the *North*.

“ **W** Hereas there hath been just cause of jealousie, that there hath
 “ been some secret Attempt and Practises, to infuse into the Ar-
 “ my a mistake of this Parliament, to some dangerous intent and purpose
 “ againk this State; and that now the matter is grown to strong presump-
 “ tion upon further discoveries, and by reason that some of those which
 “ were suspected to have been active therein, are fled upon the first stir-
 “ ring thereof, before ever they were once named. It pleaseth this House
 “ to Declare, That notwithstanding they intend to search into the bot-
 “ tom of this Conspiracy, yet purposing to proceed, especially against the
 “ principal Actors therein, this House hath resolved, whereunto the House
 “ of Peers hath likewise consented, that for such of the Army as the Con-
 “ spirators have endeavoured to work upon, if they shall testify their
 “ Fidelity to the State, by a total discovery of that which they know,
 “ and can testify therein; they shall not only be free from all punishment,
 “ but also shall be esteemed to have done that, which is for the service of
 “ the State, in the discovering so dangerous a Plot, and for such of the
 “ Army as are and shall be found no ways tainted with the Design, or
 “ knowing any thing thereof, shall make such discovery as aforesaid, as

A Letter to prevent the design to engage the Army against the Parliament. sent to Sir *Jacob Ashly*, and Sir *John Conyers*.

X x x x

“ this

"this House shall no ways doubt of their Loyalty and Fidelity, so it will
 "have a special care, not only to satisfy all such Arrears, as this House hath
 "formerly promised to discharge, but also give a fair testimony of the
 "fence they have of their present and past wants; And it is ordered by this
 "House, that immediately after the receipt hereof, you should communi-
 "cate this their Declaration unto all the Officers and Members of the Ar-
 "my, under your Command.

The Plot con-
 sisted of three
 heads.

Capt. *Billing-
 sly* his Exami-
 nation, that he
 had Orders to
 get 100 men
 into the *Tow-
 er*.

The Earl ex-
 postulates a-
 bout his e-
 scape.

Examination
 of three Wit-
 nesses more, as
 as to the Earls
 escape.

This Plot consisted of Three Heads, the first was the design upon the *Tower*; The Second, to engage the Army; The Third, to bring in foreign Forces. For the *Tower* it appeared to be thus, Captain *Billingly* being examined upon oath, confessed that he was acquainted with Sir *John Suckling*, that the said Sir *John* lately offered him employment in one of the Kings Ships then at *Portsmouth*; afterwards employment for *Portugal*; That this Deponent having notice to meet at the Privy Lodgings at *Whitehall*, did there receive Orders to get 100 men to serve in the *Tower* under him, and if he did fail, he should answer it with his life: and afterwards meeting with Sir *John Suckling*, and acquainting him therewith, he told him he would furnish him with the said number. Sir *Will. Bellfower*, Lieutenant of the *Tower* being examined, said, That he had a Command to receive Capt. *Billingly* with 100 Men into the *Tower*, who should be under his Command. That the Earl of *Strafford* at that time, expostulating with him about his escape, told him he would attempt nothing in that kind without his privity, and that he should have the Kings Warrant for his Indemnity, and that the Warrant should be to Command him to remove the said Earl of *Strafford* from the *Tower* to some other Castle, and he would then take his opportunity to escape; That the Lieutenant of the *Tower* not giving any complying Answer thereunto, the said Earl sent again to intreat him to come to him, and would have perswaded him to let him make an escape; saying, without your concurrence it cannot be done, and if you will consent thereunto, I will make you present payment of Twenty two thousand pounds, besides, you shall have a good Marriage for your Son. To which the Lieutenant of the *Tower* replied, he was so far from concurring therein, that he was not to be further moved in such a thing; thus much the Lieutenant delivered upon Oath.

Three other Witnesses were examined, who did Depose, That being desirous to see the Earl of *Strafford*, they were carried to the back door of the Gallery where his Lodgings were, and heard the Earl of *Strafford* discourse, as he was walking with Mr. *Slingsby* (as afterwards they understood his name to be) about his escape, as they conceived it, for they heard him say, Where is your Brothers Ship? to which he answered, in such a place, and that he might be there in three hours, if the Lieutenant of the *Tower* were sure to him. And heard the Earl further say, That if the King could have done any thing, His Majesty would by His Warrant have done it before now, and have sent for him to be removed; but now there was nothing to be thought upon but an escape; And also heard the said Earl say, If this Fort could be guarded two or three months, there would aid enough come.

The Plot concerning the Army was thus.

Col. *Goring*
 examination
 about the
 Plot.

Col. *Goring* upon his Examination in the House of Commons, did confess that Sir *John Suckling* was the first Person that ever made any overture

ture unto him concerning the Armys marching towards *London*; afterwards being in the Queens Lodgings, he met with Mr. *H. P.* which was about the beginning or middle of *Lent* last, and Mr. *P.* told him, there was a Consultation of Officers to be had, concerning the good of the Army, and desired him to go along with him to his Chamber, where the meeting was to be; there were present at the same meeting Comissary *Wilmot*, Col. *Ashburnham*, Capt. *Pollard*, Sir *John Berkly*, *Dan. O-Neal*, Mr. *Jermin* and himself. That Mr. *P.* said, there were Propositions to be made, which were of great concernment, and that it was necessary there should be an Oath of Secresie taken, before any thing was propounded; That the Oath should be to this purpose, that we should neither directly nor indirectly discover any part of the Consultation, nor ever to think our selves dissolved from that Oath, by any other Oath, which might be imposed upon us hereafter. which Oath was read out of a Paper, when it was tendred unto them, and that thereupon they were sworn by laying their hands upon the Bible, That he and *Jermin* were sworn together, for the rest had taken the Oath before.

Then three Propositions were made unto them, being the same in substance, expressed in Mr. *P.* Letter.

He further said, That the whole number there met, were of opinion, that the Army should not march towards *London*, till a Declaration had been first sent up to the Parliament. That he the said *Goring* answered, it was a nice point to interpose in the proceedings of the Parliament, and did propound some difficulties to allay the business, to divert Comissary *Wilmot*, and those other persons from so dangerous a business, and said, that he did think it was a design of Folly to undertake it, for they must think that the Scots would take the advantage upon the Armys removal Southwards, whose correspondency was so great with the City, and for them to begin to shew their Teeth, and not be able to bite, would argue little prudence. That they should either undertake it so, as to goe thorough with it, or to let it alone; That he did ask them, What Ammunition they had to accommodate so great an Army, and whether they could command the Ammunition in the *Tower*. That *Wilmot*, *Pollard*, and *Ashburnham*, then made answer, they had no purpose to go to *London*, for to surprize the *Tower*, was to conquer the Kingdom. That this amongst other passages, was part of the discourse at the first meeting.

That shortly after, there was another meeting of the same persons, and in the same place in Mr. *Peircies* Chamber, where there were Propositions of another nature, Desperate and Impious on the one hand, and foolish on the other: and that he endeavoured by Argument to divert them, by propounding an impossibility to effect the same: For how could the Army lodged in several Quarters, unpaid, and at such a distance, march on a sudden to *London*, and surprize what they had in Design?

That Mr. *Jermin* was the person that first proposed the marching of the Army towards *London*; That he for his part, declared himself absolutely against it: That Mr. *Jermin* replied to him in private; You do not dislike the Design, for you are as ready for any wild mad undertaking, as any man I know, but you dislike the temper of those persons who are engaged in the business.

He did further confess, That he propounded, that *Suckling* might also be admitted to the Consultation, but *Wilmot*, *Ashburnham*, and *Pollard* would not hear of it; and they three did then declare themselves against the Armys marching towards *London*.

Then he took occasion to say, That he did acquaint some Members of both Houses, whom he could name, that there were some of the Army whom they did not think so well of, were more faithful and serviceable to the Parliament, than they were aware of, which time would produce, and named them; and they did accordingly give testimony of his Integrity, so far as general Terms could discover the design: He confessed, that Mr. *Fermin* did make some offers unto him, to relinquish the Government of *Portsmouth*, upon some other terms of advantage; but he said, he did not conclude any thing, for he would first see the performance of what was offered, so had no further discourse with him concerning that business, but he doth believe that *Suckling* and *Fermin* did confer together about the Design; he said, they did desire his opinion about a General; some were for *Essex*, some for *Holland*, but he with *Fermin*, were for *Newcastle*.

Being again examined upon his Oath, before the Committee of Lords and Commons, and pressed more particularly to answer questions not before proposed unto him; He did confess, that meeting with Mr. *Fermin* in the Queens Drawing-Chamber, Her Majesty came and told him, the King would speak with him, and meeting with His Majesty, he told him, he was minded to set His Army into a good posture, being advised thereto by the Earl of *Bristol* (as he said) and His Majesty then Commanded him to joyn with Mr. *Peircy*, and some others in that business.

As for the Designs from beyond Seas, the Committee did make Report to the House, that it was clear'd unto them, that *Fermin* endeavoured to have got the possession of *Portsmouth*; That the King of *France* had drawn down great Forces to the Sea-side; That the Governor of *Calice* had examined some Englishmen, whether the Earl of *Strafford's* Head was yet off? and this was in point of time the First of *May*, according to the English stile, and Sir *Philip Cartwright*, Governor of *Guernsey*, wrote Letters also, which came in great haste; That he understood the French had a Design upon that Island, or some part of *England*. It also appeared to the Committee by divers of the Letters, which were opened coming from beyond Sea, that they expected the Earl of *Strafford* there, and that they hoped the Horseleeches should be starved for want of Blood; and in some of those Letters, there was advice to the Cardinal, to bestir himself betimes, to interrupt the height of the proceedings here in *England*. Also examination of some Priests were taken in *Lancashire*, and sent up to *London*, which were there taken the 3 of *May*, which did testify, That the Priests did say, The Parliament should be suddenly Dissolved, for the Army was to march up thither with all speed, and they would be seconded by Forces out of *France*; and that *Mountague* did write out of *France* to Mr. *Peircy* (which was also intercepted) That if he did perform what he had undertaken, he would be made a Knight of the Garter

Mr. Peircys Letter to the Earl of Northumberland, and by him presented to the Parliament

Mr. *Peircy* his
Letter against
the Plot.

“WHAT with my own Innocency, and the Violence I hear is against me, I find my self much distracted; I will not ask your Counsel, because it may bring prejudice upon you, but I will with all Faithfulness and Truth tell you, what my part hath been, that at least it may be cleared by you, whatsoever becomes of me.

“ When

“When there was 50000 *l.* designed by the Parliament for the English Army, there was (as I take it) a suddain Demand by the Scots at the same time, of 25000 *l.* of which there was 15000 *l.* ready; this they preferred with much necessity, so as the Parliament did (after an Order made) think it fit for them to Reduct 10000 *l.* out of the 50000 *l.* formerly granted, upon which, the Soldiers in our House were much scandalized, amongst which was one, and sitting by *Wilmot* and *Ashburnham*, *Wilmot* stood up and told them, *If that the Scots could procure Money, he doubted not but the Officers of the English Army might easily do the like;* but the first Order was reversed notwithstanding, and 10000 *l.* given to the Scots, this was the cause of many discourses of dislike among us, and came to this purpose, That they were disobliged by the Parliament, and not by the King, this being said often to one another, we did Resolve, that *Wilmot*, *Ashburnham*, *Pollard*, *O-Neal*, and my Self, to make some expressions of serving the King in all things he would Command us, that were Honourable for Him and us, being likewise agreeing to the fundamental Laws of the Kingdom, that so far we would live and dye with him. This was agreed upon with us, not having any communication with others, that I am coupled now with all; and further, by their joynt consent, I was to tell His Majesty thus much from them, but withal, I was to order the matter so, as the King might apprehend this as a great Service done unto him at this time, that when affairs were in so ill a condition, and they were most confident they would ingage the whole Army thus far, but further, they would undertake nothing, because they would neither infringe the Liberty of the Subjects, nor destroy the Laws; to which I and every one consented; and having their sence, I drew the Heads up in a Paper, which they all approved of when I read it, and then we did by an *Oath*, promise one another, to be constant and secret in all this, and did all of us take this *Oath* together; then I said, Well Sirs, I must now be informed, what your particular desires are, that so I may be the better able to serve you, which they were pleased to do; and so I did very faithfully serve them therein, as far as I could: This is the Truth, and all the Truth, upon my Soul. In particular discourses after that, we did fall upon the petitioning to the King and Parliament for Moneys, there being so great Arrears due to us, and so much delays made in the procuring of them, but that was never done.

The Heads were these.

1. *Concerning the Bishops Functions and Votes.*
2. *The not disbanding of the Irish Army, until the Scots were disbanded to.*
3. *The endeavouring to settle His Majesties Revenue to that proportion it was formerly.*

“And it was resolved by us all, if the King should require our assistance in those things, that as far as we could, we might contribute thereunto, without breaking the Laws of the Kingdom. And in case the King should be denied, those things being put to them, we would not fly from him: all these persons did Act and Concur in this as well as I. This being all imparted to the King by me from them, I perceived he had been Treated with by others, concerning some things of our Army which agreed not with what was proposed by me, but tended to a way more sharp and high, not having limits, either of Honor or Law. I told the
“King

" King he might be pleased to consider with himself, which of the ways
 " it was fit for him to hearken unto? for us, we were resolved not to de-
 " part from our grounds; we should not be displeased whosoever they
 " were, but the particular of the Designs, or the Persons, we desired not
 " to know, though it was no hard matter to guess at them; In the end, I
 " believe the danger of the one, and the justice of the other made the King
 " tell me, he would cast off all thoughts of other Propositions but ours,
 " as things not practicable, but desired notwithstanding, that *Goring* and
 " *Jermin*, who were acquainted with the other proceedings, should be
 " admitted amongst us; I told him, I thought the other Gentry would ne-
 " ver consent to it, but I would propose it, which I did, and we were
 " all much against it, but the King did press it so much, as at the last it
 " was consented unto, and *Goring* and *Jermin* came to my Chamber there:
 " I was appointed to tell them, after they had sworn to Secrecy, what we
 " had proposed, which I did; But before I go into the Debate of the way,
 " I must tell you, *Jermin* and *Goring* were very earnest *Suckling* should be
 " admitted, which we did all decline, and was desired by all our men to
 " be resolute in it, which I was, and gave many Reasons; whereupon Mr.
 " *Goring* made answer, he was engaged with *Suckling*, his being employ-
 " ed in the Army; but for his meeting with us, they were content to pass
 " it by: Then we took up again the ways that were proposed, which took
 " great debate, and theirs differed from ours in *Violence* and *Height*, which
 " we all protested against, and parted disagreeing totally, yet remitted it
 " to be spoken of by me and *Jermin* to the King, which we both did, and
 " the King constant to his former Resolutions, told them these ways
 " were all vain and foolish, and would think of them no more. I omit
 " one thing of Mr. *Goring*, he desired to know how the Chief Commands
 " were to be disposed of, for if he had not a Condition worthy of himself,
 " he would not go along with us; We made answer, That no body
 " thought of that; we intended, if we were sent down, to go all in the
 " same capacity we were in, he did not like that by any means, and by
 " that did work so with Mr. *Chidley*, that there was a Letter sent by some
 " of the Commanders, to make him Lieutenant-General; and when he had
 " ordered this matter at *London*, and Mr. *Chidley* had his Instructions,
 " then did he go to *Portsmouth*, pretending to be absent when this was a
 " working; we all desired, my Lords of *Effex* or *Holland* to be General,
 " but *Goring* and *Jermin* were for *Newcastle*. They were pleased to give
 " Report, that I should be General of the Horse, but I protest, neither
 " to the King, nor any else, did I so much as think of it; My Lord of
 " *Holland* was made General, and so all things were laid aside: and this is
 " the Truth, and all the Truth I knew of these proceedings; and this I
 " will, and do protest unto you upon my Faith, and *Wilmot*, *Ashburnham*,
 " and *O-Neal*, have at several times confessed and sworn; I never said any
 " thing in the business, they did not every one agree unto and justify.
 " This Relation I sent you, rather to inform you of the truth of the mat-
 " ter, that you may the better know how to do me good, but I should
 " think my self very unhappy to be made a betrayer of any body; what
 " concerned the *Tower*, or any thing else, I never medled withal, nor ever
 " spake with *Goring*, but that night before them all, and I said nothing
 " but what was consented unto by any party; I never spake one word
 " with *Suckling*, *Carnarvan*, *Davenant*, or any other creature. Methinks,
 " if my Friends and kindred knew the Truth and Justice of the matter, it
 " were no hard matter to serve me in some measure.

Afterwards,

Afterwards was read Father Philips's Letter to Mr. Mountague, as followeth;

"The good King and Queen are left very naked; the Puritans, if they durst, would pull the good Queen in pieces. Can the good King of France, suffer a Daughter of France, his Sister, and her Children to be thus affronted? Can the wise Cardinal endure England and Scotland to unite, and not be able to discern, in the end, it is like they will joyn together, and turn head against France? A stirring active Ambassador might do good here; I have sent you a Copy of the Kings Speech on Saturday last, at which time he discharged his Conscience concerning the Earl of Strafford, and was advised to make that Speech by the Earl of Bristol, and the Lord Savile.

Father Philips his Letter against the Parliament.

"This Speech did much operate to the disadvantage of the Earl of Strafford, for the Commons were thereby much incensed and inflamed against him, and this brought forth the next day, being Monday, a Protestation which was taken in both Houses of Parliament of the same nature, but rather worse than the Scotch Covenant.

"The Londoners, who are very boysterous, came upon Monday, 5 or 600, and were so rude, that they would not suffer the Lords to come and go quietly and peaceably to their House, but threatened them, that if they had not Justice, and if they had not his Life, it should go hard for all those that stood for him; following them up and down, and calling for Justice, Justice, Justice.

"There was in the House of Commons Fifty six that denyed to pass the Earl of Straffords Bill; their Names were taken, and they were fixed upon Posts in divers parts in London, and there was written over head, These are Straffordians, the Betrayers of their Countrey.

"By this means it came to pass, that the Lords and Judges were much affrighted, and the most of his friends in the Lords House forsook him, all the Popish Lords did absent themselves, the Lords of Holland and Hartford were absent, so was Bristol and others; Savil and the Duke only stuck close and faithfully to him, and some few other Lords; God knows, the King is much dejected, the Lords much affrighted, which made the Citizens and the House of Commons shew their heads; some have braved little less than to Unthroned His Majesty, Who, if He had but an ordinary Spirit, might easily quash and suppress these people. Our good Queen is much afflicted, and in my conscience, the Puritans, if they durst, would tear her in pieces. This cannot be for the Honor of France, to endure a Daughter of that Nation, to be oppressed and affronted.

"The Earl of Holland is made General of the Army, whither he is gone down; the Earl of Newport, Master of the Ordinance; Ballfower, Lieutenant of the Tower, hath proved an errand Traitor to the King, who Commanded him upon his Allegiance, to receive a Captain and 100 Men into the Tower, which he most Traiterously refused to do.

Earl of Holland General of the Army.

"There was a Report in London, that the Parliament House was on fire, whereupon there were many thousands of people very suddainly gathered together; whereby you may easily see the height and violence of the peoples affections, May the 6th. Ann. Dom. 1641.

Upon

Father Philips
to be sent for.

Upon the reading of this Letter, and exceptions taken to his expression, That *the Puritans would tear the Queen in pieces*, and to other passages in the Letter; and upon Information also given, of his endeavouring to seduce the Kings Subjects to the Popish Religion: it was ordered he should be sent for to be examined; who thereupon applyed himself to His Majesty, and the King told him, he would know what the business was before he should go, as *Philips* told the Serjeant, and so refused to come with him; Hereupon the House of Commons desired Mr. Treasurer to acquaint His Majesty, That they had some cause to examine *Francis Philips*, a Romish Priest, and to that end sent him a Summons, which he doth refuse to obey, and makes His Majesties House a Sanctuary in case of High Treason; That in respect to His Majesty, the House doth forbear to take further course herein, till His Majesty be further acquainted with it.

He appears

Hereupon Father *Philips* appeared, and was called to the Bar of the House, where he first kneeled, and afterwards stood up, and being demanded the reason, wherefore he appeared not? He answered, because the Warrant was to apprehend *Francis Philips*, and his name was *Robert Philips*, and that the Queen wish'd him to stay till he had spoken with the King, and the King told him, the House may send for him, when they call for any of his Servants, till then he need not goe; and the Letter before mentioned, being produced unto him, he confessed the same to be his own Hand-writing. The further examination of this business, was referred to the Committee for the Popish Hierarchy, who drew up this Impeachment following,

The Impeachment, and Articles of Complaint against Father Philips, the Queens Confessor, lately committed to the Tower by the Parliament.

I. **T**Hat the said Father *Philips* hath been observed to be a great cause, both in himself and his Adherents, of a great part of the unquietness of this State:

II. He, with *Parsons*, and others their Assistants, were the only cause that the Pope was stirred up to some *Breves* to these Kingdoms of *England* and *Scotland*, to hinder the Oath of Allegiance, and lawful Obedience of the Subjects to Our Gracious King, that so they may still fish in troubled waters.

III. The damnable Doctrine which he and other Jesuits have taught, to Destroy, and Depose Kings, hath been the cause of the Civil Wars, like to befall these Kingdoms, if God in his mercy do not prevent it.

IV. They have been the cause of the Monopolies projected in this Kingdom, especially concerning Soap, the Forrest of *Dean*, and marking of Butter-Cask, where all the Parties were Partners, and Confederates with them, as *Sir Basil Brook*, *Sir John Winter*, and a Brother-in-law of the said *Sir John*, that lived in *Worcestershire*, and *Mr. Ployden*, whose Servant named *Baldwin*, hath been seen to deliver to Captain *Read*, a Substitute of the Jesuits, an hundred pound at a time to one Jesuite.

V. Father *Philips* hath been a great Actor with the Superior of the *Campuchins*, who is a most turbulent Spirit, and was sent thither by Cardinal *Richlieu* of *France*, to be a spy at this Court for the French Faction : And hath therefore laboured by all means to breed dissensions; for the French aim at nothing more, then to make a Schism betwixt the *English* and the *Scots*, that this State might so be weakened, and made unable to withstand them, that so they might have an opportunity to conquer these Kingdoms; these unquiet Spirits having access to Her Majesty, may importune things not fit for the State.

VI. The said Father *Philips* hath been guided by a Gray Fryer, who by degrees hath intruded himself to be a Clerk of Her Majestys Chappel, and Chaplain Extraord. in time of progress, who when he is out of *London*, goeth by the name of Mr. *Wilson*, but his true name is *Will. Thomson* Dr. of Divinity, as some Jesuits have affirmed; but a most furious Spirit, and unquiet, and therefore by Nickname, is by some called *Cacafugo*, that is as much as if in English you should say *shit-fire*; by whom Father *Philips* hath been so led, that he hath been very officious to perform whatsoever he would have done. These two have ruled all the business concerning the two Kingdoms on the Papists parts, and for the most part of *Rome* also.

VII. The said Father *Philips* hath placed many unfit persons about Her Majesty, viz. Sir *John Winter* to be Her Majesties Secretary, Signior *Georgeo* come late Agent from the Pope, his Brother was by his means admitted to be Servant Extraordinary to the Queen, a man altogether unfit for that place, a most scandalous person, having three Wives, all now alive.

VIII. Sundry persons by the said Father *Philips* have been admitted to be the Queens Servants Extraordinary, by some supposed Office or other, as Mr. *Laburn*, *Geo. Gage*, (Brother to Col. *Gage*) have both Oratorian Priests, the one of the French Faction very seditious, the other of the Spanish, whose Brother is now left Resident at *Rome* for them, by his Master Mr. *William Hamilton* late Agent at *Rome*; *Penrick* is sworn Servant Extraordinary to Her Majesty, who is a sworn Spaniard, and Intelligencer for *Rome*, in respect his Brother is Agent here by Father *Philips*; these and many others, who are factious and turbulent spirits, have by Father *Philips* his means, received protection from the Queens Majesty.

IX. The said *Philips* hath been much ruled by Sir *Toby Mathews*, Sir *John Winter*, and Mr. *Walter Mountague*.

X. He was very forward with his Complices, for the breaking of the Ice to begin the Treaty here for the Popes Honors sake, and when Sir *Robert Douglas*, and Signior *Georgio* were nominated, whom he thought most fit, Cardinal *Richlieu* was thought fittest to be the man who should direct him to begin the correspondency between the Pope and the Queen, and therefore he was sent to *France* with many Letters, and from thence he was dispatched for *Rome* by the Cardinal, where he was received with great respect; and after a *Viatic*, he was dispatched again for *England* with some few small Gifts, as *Pictures*, *Crosses*, *Agnus Dei's*, and such like Popish stuff, to Father *Philips*.

Y y y

XI. The

XI. The said Father *Philips* was the chief Agent in correspondence with, and bringing in of Signior *Georgio Parsons*, the Oratorian Priest, by whose direction this Priest, being at *Paris*, left wearing of Priests Cloaths, and went in the Habit of a Gentleman; and because he had a shaven Crown, therefore he wore a Periwig, and Father *Philips* directed all those that sent to write to him, as to an Italian Gentleman, desirous to see these Kingdoms, and by Father *Philips*'s direction, he afterwards came hither, who did here contrive for the space of two years, practising great and dangerous Innovations from place to place, and then having dispatched his business, returns to *Rome* with great Presents from the Catholicks of the greater sort.

XII. Whereas it hath pleased God to bless us with a hopeful Prince, to the comfort of our King and Kingdom, yet the said Father *Philips* hath attempted to traduce his tender years to Popery; but God hath prevented him of his purpose, and let us pray to God to preserve that Royal Race from Popery, and the whole Land from all Innovations, that Our Gracious King may rule Gloriously, and the whole Land live in peace to the Honor of God, and Comfort of us all, *Amen*.

Several Vo'es
against Ar.
Peircy about
the Plot.

Resolved, That Mr. *Henry Peircy* in the Months of *March* and *April* last, in the Parish of *St. Martins*, in the County of *Middlesex*, did compass, Plot, and Conspire with others, to draw the Army together, and imploy the same against the Parliament, and by force and dread thereof, to compel the Parliament to agree to certain Propositions by them contrived, and to hinder and interrupt the Proceedings of the Parliament; The like Resolution in the same words concerning Mr. *Jermin*, Sir *John Suckling*, &c.

Resolved, That in pursuance of the said Design, the said *Henry Peircy* by the Plot and Combination aforesaid, did endeavour to perswade divers Members of the House of Commons of the said Parliament and others, being Officers of the said Army, that is to say, *Wilmot*, *Ashburnham*, *Berkley*, *Pollard*, and *Daniel O-Neal*, that they were disoblged by the Parliament, thereby to incense them, and to affect them against the Parliament, and did hold divers consultations with the said parties, to effect the said wicked and dangerous Design; and to that purpose, did set down in Writing certain Propositions to the effect as followeth, viz. *The preserving of Bishops in their Functions and Votes; The not Disbanding of the Irish Army, until the Scots were Disbanded; And the endeavouring to settle the Kings Revenue to the proportion it was formerly.*

Resolved, That the said *Henry Peircy* did in pursuance of the Plot and Combination aforesaid, and for the more secret carriage thereof, administer to the said parties a wicked and unlawful Oath, whereby they did swear upon the Holy Evangelists, not to reveal any thing, that was spoken concernig the business, that was in Consultation, directly or indirectly, nor to think themselves absolved by any other Oath that should be after taken by them, from the Secrefie enjoyed by the said Oath.

Resolved, That the said *Henry Peircy* at the time of the said Oath was taken, and at divers other times did propound and endeavour to perswade the persons before-named, and other Officers of the said Army, to put the said Army into a Warlike posture, and to bring them up to *London*, and likewise

likewise to make themselves sure of the *Tower*, and so by force to compel the Parliament to conform to their Will, and he with *Suckling*, &c. did endeavour to work a belief in the said Army, that the King and Parliament would disagree, and so to persuade them to adhere to His Majesty against the Parliament; and said, that all the French about the City of *London* would assist them, and to the great scandal of the King, That the Prince and the Earl of *Newcastle* were to meet the Army at *Nottingham*, with a Thousand Horse; and that *Suckling* to encompass the Design of gaining the *Tower*, did contrive, that 100 Men under Capt. *Billingsey* should be designed for that purpose, when the opportunity was offered.

To the end the City of *London* should not be able to make any resistance, when the said Army should come up, according to the forementioned Design; and *Suckling* by the means and Plot aforesaid, did thereby endeavour, that the Earl of *Strafford*, then Prisoner in the *Tower*, might the better encompass his escape.

That *Berkley* and *O-Neal* being questioned, 'did flye for the same.

Resolved, That upon the whole matter, Mr. *Pierce* shall be charged with High Treason, the like for *Jermin* and *Suckling*.

That 3000 l. of the Pole-money be paid to Col. *Goring*, for the use of the Garrison of *Portsmouth*.

Resolved, That Col. *Goring* in his Depositions concerning this Discovery, hath done nothing contrary to Justice and Honour, but hath therein deserved very well of the Commons of this House.

Friday the 7th of May, the Lords passed the Bill of *Attainder*, as also the Bill for the Continuance of this present Parliament.

Saturday the 8th of May, Mr. *Hotham* was sent with a Message to the House of Lords, to desire their Lordships to joyn with them, to move His Majesty for his Consent to the Bill of *Attainder*, in regard, the peace of the Ringdom doth so much depend upon the execution of that Bill, which had passed both Houses; and accordingly a certain number of the House of Peers were sent unto His Majesty, to acquaint him therewith; and also with the Bill for the Continuance of this present Parliament.

The House being informed, That Ships were ready to be put to Sea, but that Mariners could not be got. It was the same day Resolved, That a Bill should be drawn to enable the Pressing of Mariners for a certain time, the House being very tender of bringing the way of Pressing into example by a Law.

Sunday the 9th of May, the King called His Privy Council together at *Whitehall*, and propounded several scruples unto them concerning that Bill, some of the Judges and Bishops were present also, to whom His Majesty imparted his doubts, and had their opinions therein. In Fine, His Majesty gave Order for a Commission to empower the Earl of *Arundel*, the Lord Privy Seal, and two other Lords, to give his Assent to the Bill, for the Execution of the Earl of *Strafford* upon *Wednesday* following; as also to the other Bill for the continuance of this present Parliament.

Monday the 10th of May, the Commission passed the Great Seal accordingly, and the Commons were sent for to the House of Lords, to be present at the giving the Royal Assent to both those Bills.

Barkley and *O-Neal* are fled. Mr. *Peirey* charged with High Treason.

A Vote to vindicate Col. *Goring*.

Bill of *Attainder*, and for continuance of the Parliament, passed Message to the Lords to move the King for His Consent to pass the Bill of *Attainder*.

To Press Mariners.

The King, Judges, and Bishops consult about *Strafford*.

The King gives Warrant for a Commission to give His Assent to the Bill for execution of the Earl of *Strafford*.

The Royal Assent given this day, and the Bill passed.

The King consents that the Irish Army should be instantly disbanded.

Thanks returned to His Majesty.

The Earl of Strafford's Petition to the House of Peers.

The same day His Majesty sent a Message to both Houses, that the Irish Army should be instantly disbanded, and that he would that night dispatch an Express for the expediting thereof.

It was hereupon moved, That Mr. Treasurer be desired by the House of Commons to return their Humble thanks to His Majesty, and to assure him, that they would make him as Glorious a Potentate, and as rich a Prince, as any of His Predecessors, His Majesty continuing still to take the advice of His Great Council the Parliament along with him, in the management of the great affairs of the Kingdom.

The Earl of *Strafford* understanding that His Majesty had passed the Bill, did Humbly Petition the House of Peers.

"S E E i n g it is the good Will and pleasure of God, that your Petitioner is now shortly to pay that Duty which we all owe to our frail Nature; he shall in all Christian Patience and Charity, conform and submit himself to your Justice, in a comfortable assurance of the great hope laid up for us, in the Mercy and Merits of our Saviour blessed for ever.

"Only he humbly craves to return your Lordships most Humble thanks for your Noble Compassion towards those Innocent Children, whom now with his last blessing, he must commit to the protection of Almighty God, beseeching your Lordships to finish his pious intentions towards them, and desiring that the reward thereof may be fulfilled in you, by him that is able to give above all we are able to ask or think; Wherein I trust the Honourable House of Commons will afford their Christian Assistance.

"And so beseeching your Lordships Charitably to forgive all his Omissions and Infirmities, he doth very heartily and truly recommend your Lordships to the Mercies of Our Heavenly Father, and that for his Goodness he may perfect you in every good Work, Amen.

T H O. W E N T W O R T H.

The Bill of Attainder.

W H E R E A S the Knights, Citizens, and Burgeesses of the House of Commons in this present Parliament Assembled, have in the name of themselves, and of all the Commons of England, Impeached *Thomas Earl of Strafford* of High Treason, for endeavouring to subvert the Antient and Fundamental Laws and Government of His Majesties Realms of England and Ireland, and to introduce an Arbitrary and Tyrannical Government against Law in the said Kingdoms, and for exercising a Tyrannous and exorbitant Power over, and against the Laws of the said Kingdoms, and the Liberties, Estates, and Lives of His Majesties Subjects; and likewise having by his own Authority Commanded the Laying and Assessing of Soldiers upon His Majesties Subjects in Ireland, against their consents, to compel them to obey his unlawful Summons and Orders made upon Paper-Petitions in Causes between Party and Party, which accordingly was executed upon divers of His Majesties Subjects in a Warlike manner, within the said Realm of Ireland; and in so doing, did Levy War against the Kings Majesty and His Liege People in that Kingdom; And also for that he, upon the unhappy Dissolution of the last Parliament, did slander the House of Commons to His Majesty, and did Counsel and Advise His Majesty, That he was loose and absolved from the Rule of Government, and that

That he had an Army in Ireland, by which he might reduce this Kingdom; for which he deserves to undergo the Pains and Forfeitures of High Treason.

And the said Earl hath been an Incendiary of the Wars between the two Kingdoms of England and Scotland; all which Offences have been sufficiently proved against the said Earl upon his Impeachment.

Be it therefore Enacted by the Kings Most Excellent Majesty, and by the Lords and Commons in this present Parliament assembled, and by the Authority of the same, that the said Earl of Strafford, for the Heinous Crimes and Offences aforesaid, stand, and be adjudged and attainted of High-Treason, and shall suffer such Pain of Death, and incur the Forfeitures of his Goods and Chattels, Lands, Tenements and Hereditaments of any Estate of Freehold, or Inheritance in the said Kingdoms of England and Ireland, which the said Earl, or any other to his use, or in trust for him, have or had the day of the first sitting of this Parliament, or at any time since.

*Provided, that no Judge or Judges, Justice, or Justices whatsoever, shall adjudge or interpret any act or thing to be Treason, nor hear or determin any Treason in any other manner than he or they should, or ought to have done before the making of this Act, and as if this Act had never been had or made; Saving always unto all and singular Persons, Bodies Politick and Corporate, their Heirs and successors, others then the said Earl and his Heirs, and such as Claim from, by, or under him all such Right Title and Interest of, in, and to all and singular such of the said Lands, Tenements and Hereditaments, as he, they, or any of them had before the first day of this present Parliament, any thing herein contain'd to the contrary notwithstanding.

Provided, That the passing of this present Act, or His Majesties Assent thereunto, shall not be any determination of this present Sessions of Parliament; But that this present Sessions of Parliament, and all Bills and Matters whatsoever depending in Parliament, and not fully Enacted or Determined, and all Statutes and Acts of Parliament, which have their continuance until the end of this present Session of Parliament, shall remain, continue, and be in full force as if this Act had not been.

The day following, the King wrote this Letter to the Lords on the behalf of the Earl of Strafford, and sent it by the Prince.

My Lords,

I Did yesterday satisfy the Justice of the Kingdom, by passing the Bill of Attainder against the Earl of Strafford; but Mercy being as inherent and inseparable to a King as Justice, I desire at this time in some measure to shew that likewise, by suffering that unfortunate Man to fulfil the Natural Course of his Life in a Close Imprisonment; Yet so, if ever he make the least offer to escape, or offer directly, or indirectly to meddle in any sort of publick business, especially with me, either by Message or Letter, it shall cost him his Life, without further Process; This if it may be done without the Discontentment of my People, will be an unspeakable contentment to me; to which end, as in the first place, I by this Letter do earnestly desire your Approbation, and to endear it more, have chosen him to carry it, that of all your house is most dear to me; So I desire that by a Conference, you will endeavour to give the House of Commons Contentment, assuring you that the Exercise of Mercy is no more pleasing to me, than to see both Houses of Parliament Consent for my sake, that I should moderate the severity of the Law in so important a Case.

I will not say, that your Complying with me in this my intended Mercy, shall make me more Willing, but certainly 'twill make me more Chearful, in Granting

*This Proviso hath occasioned the common discourse and opinion, that this Judgment against the Earl was Enacted never to be drawn into President.

The Kings Letter on behalf of the Earl of Strafford.

ing your Just Grievances. But, if no less then his life can satisfie my people,
I must say, Fiat Justitia. Thus again, recommending the Consideration of my
Intention to you, I rest,

Your unalterable and affectionate Friend,

Whitehall, 11th of
May, 1641.

Charles R.

If he must dye, is were Charity to Reprieve him till Saturday.

Twelve Lords
sent to the
King.

This Letter, all Written with the Kings own Hand, and delivered by the Hand of the Prince, was twice Read in the House, and after serious and sad Consideration, the House resolved presently to send 12 of the Peers Messengers to the King, humbly to signifie, "That neither of the Two Intentions, expressed in the Letter, could, with duty in them, or without danger to Himself, his dearest Consort the Queen, and all the Young Princes their Children, possibly be Advised; all which being done accordingly, and the Reasons shewed to His Majesty, He suffered no more words to come from them: but, out of the fulness of His heart, to the observance of Justice, and for the Contentment of His People, told them, *That what He intended by His Letter was, with an (if) if it might be done without Discontentment of His People; if that cannot be, I say again, the same I Writ, Fiat Justitia: My other Intention proceeding out of Charity for a few days Respite, was upon certain Information, that his Estate was so distracted, that it necessarily required some few days for settlement thereof.*

Whereunto the Lords Answered; "Their purpose was to be Suitors to His Majesty, for favour to be shewed to his Innocent Children; and if himself had made any provision for them, the same might hold.

This was well-liking unto His Majesty, who thereupon departed from the Lords: At His Majesties parting they offered up into His hands the Letter it self which He had sent; but He was pleased to say, *My Lords, What I have Written to you, I shall be content it be Registred by you in your House; In it you see my mind, I hope you will use it to my Honour.*

This, upon return of the Lords from the King was presently Reported to the House by the Lord Privy-Seal, and Ordered that these Lines should go out with the Kings Letter, if any Copies of the Letter were dispersed.

QueenMother

The House being informed, That the Queen-Mother apprehending Her self in some danger, by reason that divers words were scattered among the Tumultuous Assembly, as if they had some design upon Her Person, and those Priests which she had for Her own Household, desired a Guard for Her Security, Concluded, that as to the Security of Her own Person, they were bound in honour not to suffer any Violence to be done unto Her, and so referred it to a Committee, to consider what was fit to be done in order thereto: Which being Reported by Mr. Henry Martyn, he declared, That the Committee had duely considered Her Majesties just Fears, and therefore should agree to all good ways and means, that might conduce to the safety of her Person. But fearing that the said means may notwithstanding prove ineffectual for Her Protection, That therefore the House would intreat the Lords to joyn with them, humbly to beseech His Majesty,

Majesty, That the Queen Mother may be moved to depart the Kingdom, the rather for the Quieting of those Jealousies in the Hearts of His Majesties well-affected Subjects, occasioned by some ill Instruments about the said Queens Person, by the flocking of Priests and Papists to Her House, and by the Use and Practice of the Idolatry of the Mass.

Wednesday the 12th of May.

THe Earl of *Strafford* was brought from the Tower to the Scaffold upon *Tower-Hill*, where the Bishop of *Armagh*, the Earl of *Cleeve-land*, Sir *George Ventworth*, Brother to the said Earl of *Strafford*, and others of his Friends, were present, to take their Leaves of him. But before he fitted himself to Prostrate his Body to Execution, he desired patience of the People to hear him speak a few words, which the Author took from his Mouth, being then there on the Scaffold with him, viz.

The Earl of
Strafford
brought to
the Scaffold.

MY Lord Primate of *Ireland*, and my Lords, and the rest of these Noble Gentlemen, It is a great Comfort to me to have your Lordships by me this day, because I have been known to you a long time, and I now desire to be heard a few words.

His Speech.

"I come here, my Lords, to pay my last Debt to Sin, which is Death; And through the Mercies of God to rise again to Eternal Glory.

"My Lords, if I may use a few words, I shall take it as a great Curse from you; I come here to submit to the Judgment that is passed against me; I do it with a very quiet and contented Mind; I do freely forgive all the World; a forgiveness not from the Teeth outward (as they say) but from my heart; I speak in the presence of Almighty God, before whom I stand, that there is not a displeasing thought that ariseth in me against any Man: I thank God I say truly, my Conscience beares me Witness, that in all the Honor I had to serve His Majesty, I had not any Intention in my heart, but what did aime at the Joynt and Individual prosperity of the King and His People; although it be my ill hap to be misconstrued; I am not the first Man that hath suffered in this kind: It is a Common Portion that befalls men in this Life, Righteous Judgment shall be hereafter; here we are subject to Error, and Misjudging one another.

"One thing I desire to be heard in, and do hope, that for Christian Charities sake I shall be believed; I was so far from being against Parliaments, that I did always think Parliaments in *England* to be the happy Constitution of the Kingdom and Nation, and the best means, under God, to make the King and His people happy: As for my Death, I do here acquit all the World, and beseech God to forgive them; In particular, I am very glad His Majesty conceives me not meriting so severe and heavy a punishment, as the utmost Execution of this Sentence; I do infinitely rejoyce in it, and in that Mercy of His, and do beseech God to Return Him the same, that He may find Mercy when He hath most need of it. I wish this Kingdom all prosperity and happiness in the World: I did it Living, and now Dying it is my Wish.

"I profess heartily my apprehension, and do humbly recommend it to you, and wish that every Man would lay his hand on his heart, and consider seriously, Whether the beginning of the peoples Happiness should be Written in *Letters of Blood*? I fear they are in a Wrong Way; I
"desire

desire Almighty God, that no one drop of my Blood rise up in judgement against them; I have but one word more, and that is for my Religion.

My Lord of *Armagh*, I do profess my self seriously, faithfully, and truly to be an obedient Son of the Church of *England*; In that Church I was born and bred, in that Religion I have lived, and now in that I dye; Prosperity and Happiness be ever to it.

It hath been said I was inclined to Popery, if it be an Objection worth the answering, let me say truly from my heart, that since I was Twenty one years of age unto this day, going on 49 years, I never had thought or doubt of the truth of this Religion, nor had ever any the boldness to suggest to me the contrary, to my best remembrance.

And so being reconciled to the Mercies of Jesus Christ my Saviour, into whose bosom I hope shortly to be gathered, to enjoy Eternal Happiness, which shall never have an end; I desire heartily to be forgiven of every Man, if any rash or unadvised Words or Deeds have passed from me; and desire all your Prayers; and so my Lord farewell; and farewell all things in this world.

The Lord strengthen my Faith, and give me Confidence and Assurance in the Merits of Christ Jesus; I trust in God we shall all meet to live Eternally in Heaven, and receive the accomplishment of all Happiness, where every Tear shall be wiped from our Eyes, and sad thoughts from our Hearts; And so God bless this Kingdom, and Jesus have Mercy on my Soul.

Then turning himself about, he saluted all the Noblemen, and took a solemn leave of all considerable persons on the Scaffold, giving them his Hand.

And after that he said, Gentlemen, I would say my Prayers, and I intreat you all to pray with me, and for me: Then his Chaplain laid the Book of Common Prayer upon the Chair before him, as he kneeled down, on which he prayed almost a quarter of an hour, then he prayed as long or longer without a Book, and ended with the Lords Prayer: then standing up, he spied his Brother Sir *George Wentworth*, and call'd him to him, and said, Brother, We must part, remember me to my Sister, and to my Wife, and carry my blessing to my eldest Son, and charge him from me, that he fear God, and continue an obedient Son of the Church of *England*, and that he approve himself a faithful Subject to the King, and tell him, that he should not have any private Grudge or Revenge towards any concerning me, and bid him beware to meddle not with Church Livings, for that will prove a Moth and Canker to him in his Estate, and wish him to content himself to be a Servant to his Countrey, as a Justice of Peace in his County, not aiming at higher preferments: Carry my Blessing also to my Daughter *Ann*, and *Arrabella*, charge them to fear and serve God, and he will bless them, not forgetting my little Infant, that knows neither good nor evil, and cannot speak for it self, God speak for it, and bless it. Then said he, I have nigh done; One stroak will make my Wife Husbandless, my dear Children Fatherless, and my poor Servants Masterless, and separate me from my dear Brother, and all my Friends, but let God be to you and them all in all.

After, that, going to take off his Doublet, and to make himself unready; he said, I thank God I am no more afraid of Death, nor daunted with any discouragements arising from any fears, but do as chearfully put off my Doublet at this time, as ever I did when I went to Bed; Then he

he put off his Doublet, and wound up his Hair with his Hands, and put on a white Cap.

Then he called, Where is the man that should do this last Office? (meaning the Executioner) call him to me; When he came and ask'd him forgiveness, he told him, he forgave him and all the World; then kneeling down by the Block, he went to Prayer again himself, the Bishop of Armagh kneeling on the one side, and the Minister on the other; to the which Minister after Prayer he turned himself, and spoke some few words softly, having his Hands lifted up, the Minister closed his Hands with his; then bowing himself to the Earth, to lay down his Head on the Block, he told the Executioner, that he would first lay down his Head to try the fitness of the Block, and take it up again, before he laid it down for good and all, and so he did; and before he laid it down again, he told the Executioner, That he would give him warning when to strike by stretching forth his Hands, and then laid down his Neck on the Block, stretching out his Hands, the Executioner struck off his Head at one blow, then took the Head up in his Hand, and shewed it to all the People, and said; *God save the King.*

A Copy of the Paper containing the Heads of the Lord Straffords last Speech, written by his own Hand, as it was left upon the Scaffold.

1. **I** Come to pay the last debt we owe to Sin.
2. **I** Rise to Righteousness.
3. Dye willingly.
4. Forgive all.
5. Submit to what is voted Justice, but my intentions innocent from Subverting, &c.
6. Wishing nothing more than great Prosperity to King and People.
7. Acquit the King constrained.
8. Beseech to Repent.
9. Strange way to write the beginning of Reformation, and Settlement of a Kingdom in Blood on themselves.
10. Beseech that Demand may rest there.
11. Call not Blood on themselves.
12. Dye in the Faith of the Church.
13. Pray for it, and desire their Prayers with me.

Give me leave here to add two pretty passages more: The first is when My L. of *Strafford*, the night before the day of Execution, had sent for the Lieutenant of the *Tower*, and asked him, Whether it were possible he might speak with the Archbishop; The Lieutenant told him, he might not do it without Orders from the Parliament. Master Lieutenant (said he) you shall hear what passeth betwixt us; it is not a time either for him to plot Heresie, or me to plot Treason. The Lieutenant answered, that he was limited, and therefore desired his Lordship, that he would petition the Parliament for that favour: No, (said he) I have gotten my dispatch from them, and will trouble them no more; I am now petitioning an Higher Court, where neither Partiality can be expected, nor Error feared. But my Lord, said he, (turning to the Primate of *Ireland* then present) what I should have spoken to my Lords Grace of *Canterbury*, is this, You shall desire the Archbishop to lend me His Prayers this night, and to give me his Blessing when I go abroad to morrow, and to be in his Window, that by my last farewell, I may give him thanks for this, and all other his former Favours.

My Lord Primate having delivered the Message without delay, the Archbishop replied, That in Conscience he was bound for the First, and in Duty and Obligation to the Second; but he feared his Weakness and Passion would not lend him Eyes to behold his last departure.

The next morning at his coming forth, he drew near to the Archbishops Lodgings, and said to the Lieutenant, Though I do not see the Archbishop, give me leave I pray you to doe my last observance towards his Rooms: In the mean time, the Archbishop advertised of his approach, came out to the Window, then the Earl bowing himself to the ground, My Lord (said he) *Your Prayers, and your Blessing*; the Arch-Bishop lift up his Hands and bestowed both, but overcome with Grief, fell to the ground in *Animi diliquio*; the Earl proceeding a little further, bowed the Second time, saying, *Farewel my Lord, God protect your Innocency.*

The next is, When he was marching to the Scaffold, more like a General at the Head of an Army, as many of the spectators then said, to breath Victory, than like a Condemned man, to undergo the Sentence of death; The Lieutenant desired him to take Coach; for fear the people should rush in upon him and tear him in pieces; No (said he) Master Lieutenant, I dare look death in the Face, and I hope the People too; have you a care that I do not escape, and I care not how I dye, whether by the hand of the Executioner, or the madness and fury of the people, if that may give them better content, it is all one to me.

He left these Three Instructions for his Son in Writing.

First, That he should continue still to be brought up under those Governors, to whom he had committed him, as being the best he could pick out of all those within his knowledge, and that he should not change them, unless they were weary of him; that he should rather want himself, than they should want any thing they could desire.

Secondly, If his Prince should call him to publique Service, he should carefully undertake it, to testify his obedience, and withal, to be faithful

ful and sincereto his Master, though he should come to the same end that himself did.

Thirdly, That he foresaw that ruine was like to come upon the Revenues of the Church, and that perhaps they might be shared amongst the Nobility and Gentry, but I charge you never to meddle with any of it, for the curse of God will follow all them that meddle with such a thing, that tends to the destruction of the most Apostolical Church upon Earth.

A brief Account of some Interlocutory passages in Parliament, in which my Lord of Strafford so discovered his Wit and Temper, that the Court took particular notice of him.

IN the month of September, 1626. The King having special occasions, to be furnished with Money, suitable to the importance of his undertakings, for the relief of the King of Denmark, His Majesty came to this Resolution: That the urgency of affairs not admitting the way of Parliament, the most speedy, equal, and convenient means were by a general Loan from the Subject, according as every man was Assessed in the Rolls of the last Subsidy.

Upon which Result, the King forthwith chose Commissioners for the Loan, and caused a Declaration to be published, wherein he alledged for this course of Supply, the Reasons set down at large in his late Declaration, touching the Dissolution of the Parliament 2^o Car. adding farther, That the urgency of the occasion would not give leave to the calling of a Parliament.

In the said year 1626, Sir Thomas Wentworth having a Privy Seal sent unto him about the Loan-money, and to advance the sum of 40*l*. to the King, he (amongst other things in the County of York) refused to lend the same, as being a Demand contrary to the Right and Property of the Subject, to part with their Money, but by consent of Parliament.

The Non-Subscribers of high Rank, and Rate in most Counties, were bound over by Recognizance, to tender their appearance at the Council Table, and divers of them were committed to prison; but others also of Quality, were appointed to several Confinements, not in their own, but in remote Counties.

Sir Thomas Wentworth and Geo. Ratcliffe, Esq; (afterwards Sir George) were sent by Messengers from the Council, and removed out of the County of York into the County of Kent, and there secured by Confinement, and during this Restraint and Confinement, a Parliament was called, which was to meet March 17. 3 Car. 1627.

In the month of July, before the calling of this Parliament, the Lord Conway, Secretary of State, brought a Message from the King to Arch-bishop Abbot, that it was His Majesties pleasure, he would withdraw from his Houses at Lambeth and Croydon, and go to Canterbury, and reside there.

What is my fault (said the Arch-Bishop) that brings this message of Removal and Confinement upon me? Although (said the Secretary) I have no Commission to tell you, it is for a Book you would not Licence for the Kings Service; and afterwards the Arch-Bishop understood more particularly, that besides that, it was because Sir Thomas Wentworth made resort to the Arch-Bishops House, at times of Dinner and Supper.

As for Sir Thomas Wentworth, he had good occasion to send unto me, and sometimes to see me, because we were joynt Executors to Sir George Savile, who married his Sister, and was my Pupil at Oxford, to which Son also, Sir Thomas Wentworth and I were Guardians, as may appear in the Court of Wards, and many things passed between us in that behalf; yet to my remembrance, I saw not this Gentleman but once these three quarters of a year last past, at which time he came to see his Brother-in-law the Lord Clifford, who was then with me at Dinner at Lambeth.

Saturday, March the 22th.

The time of the House was spent in opening the Grievances, and State of the Kingdom, as Billeting of Soldiers, Benevolencies, and Privy Seals, and the imprisoning certain Gentlemen, who refused to lend upon that account, &c. Sir Francis Seymor spake first, and said,

“This is the great Council of the Kingdom, and here (if not here alone) His Majesty may see, as in a true Glass, the State of the Kingdom, &c. We are called hither by His Majesties Writs, to give him faithful Council, such as may stand with His Honor; but this we must do without flattery, we are sent hither by the Commons to discharge the Trust reposed in us, by delivering up their just Grievances, and this we must do without fear: Let us not therefore be like the *Cambyses* Judges, who being demanded of their King, Whether it were not lawful for him to do what in it self was unlawful, they (rather to please the King than to discharge their own Consciences) Answered, That the Persian Kings might do what they listed, &c. Flattery tends to mischief, being fitter for reproof than imitation, and as Flattery, so Fear taketh away the Judgement; let us not then be possessed with Fear or Flattery, of corruptions the basest: For my own part, I shall shun both these, and speak my Conscience with as much Duty to His Majesty as any man, but not neglecting the Publique, in which His Majesty and the Common-wealth have an interest: but how can we shew our Affections, whilst we retain our Fears? or how can we think of giving Subsidies, till we know whether we have any thing to give or no? For if His Majesty be persuaded by any to take from His Subjects what He will, and where it pleaseth him, I would gladly know what we have to give?”

After Sir Francis Seymor had ended his Speech, Sir Thomas Wentworth stood up and said,

“His Debate carries a double Aspect, towards the Soverign and the Subject, though both be innocent, both are injured, and both to be cured: Surely in the greatest humility I speak it, these illegal ways are punishments and marks of indignation, the raising of Loans strengthened by Commission, with unheard of Instructions and Oaths; the Billeting of Soldiers by the Lieutenants, and Deputy-Lieutenants, have been as they could have persuaded Christian Princes, yea, Worlds, that the right of Empires, had been to take away by strong Hands, and they have endeavour’d as far as possible for them to do it: This hath not been done by the King (under the pleasing shade of whose Crown, I hope we shall ever gather the Fruits of Justice) but by Projectors, who have

"have extended the Prerogative of the King, beyond the just Symetry;
 "which maketh a sweet harmony of the whole: They have brought the
 "Crown into greater want than ever, by anticipating the Revenues; and
 "can the Shepherd be thus smitten, and the Sheep not scattered? They
 "have introduced a Privy Council, ravishing at once the Spheres of all
 "antient Government; imprisoning us without Bail or Bond; They have
 "taken from us, (what shall I say indeed, what have they left us?) all means
 "of supplying the King, and ingratiating our selves with him, taking up
 "the root of all Propriety, which if it be not seasonably set again into the
 "ground by His Majesties own Hands, we shall have *instead of Beauty, Bald-*
 "*ness.* To the making of those whole, I shall apply my self, and propound
 "a remedy to all these Diseases: by one and the same thing have King
 "and People been hurt, and by the same must they be cured; To vindi-
 "cate which, shall we propound new things? No, our antient vital Li-
 "berties by enforcing the antient Laws made by our Ancestors, by setting
 "forth such a Character of them, as no Licentious Spirit shall dare to en-
 "ter upon them, will do the business; and shall we think this is a Way to
 "break a Parliament? No, our desires are Modest and Just, I speak truly,
 "both for the interest of King and People; if we enjoy not these, it will
 "be impossible for to releive him.

"Therefore let us never fear, they shall not be accepted by his good-
 "ness, wherefore I shall shortly descend to my Motions, consisting of four
 "Parts, two of which have relation to our Persons, two to the propriety
 "of Goods for our Persons; First, the Freedom of them from employ-
 "ment abroad, contrary to the antient Customs: For our Goods, that
 "no Levies be made, but by Parliaments. Secondly, No Billeting of Sol-
 "diers: It is most necessary, that these be resolved, that the Subject may
 "be secured in both.

Monday, March 24.

Secretary Cook renewed the Motion of Supply for His Majesty; yet so,
 that Grievances be taken into Consideration; We all think (said
 he) that both these goe hand in hand together: but let me put you in
 mind of that which concerns the King, let him have the Precedency of
 Honor, if not of Time; Let Heads of the Kings Supply be first propound-
 ed: No King is more ready to hear the complaints of His Subjects; and
 withal, you know, no King is more sensible of all reproaches which touch
 his Honor: Would it not be fit to grant him this Honor to have the Pre-
 cedency, this will have good Aspect abroad, it will prevent Divisions at
 home, &c.

The first sower of Seeds of Distractions amongst us, was an Agent from
 Spain (Gundemore) that did his Master great service here and at home;
 since that, we have other Ministers that have blown the fire; the Amba-
 sador of France, who told his Master at home, that he had wrought divi-
 sions here between King and People, and he was rewarded; Whilst we
 sate here in Parliament, there was another intended Parliament within a
 mile of this place; this was discovered by Letters sent to Rome, and the
 place of their meeting is now changed; I desire the meanest judgement
 will consider what may follow in giving precedency to His Majesty; in so
 doing, we shall put from our selves many Imputations; This matter co-
 ming to no resolution this day, Secretary Cook the next day tendred to the
 House certain Propositions from the King, touching Supply. viz.

Wednesday,

His Majestys
Propositions
to the House
of Commons
touching Sup-
ply.

See page)
in the First
Part of *Histo-
rical Collec-
tions*.

Wednesday, March 26. 1628.

THE Propositions tendred the day before by Secretary Cook from His Majesty, were now Received and Read, but the Debate thereof was referred to another day: the Propositions were these, viz.

1. To furnish with Men and Victuals, Thirty Ships to guard the narrow Seas, and along the Coasts.
2. To set out 10 other Ships for the relief of the Town of Rochelle.
3. To set out 10 other Ships for the preservation of the Elbe, the Sound, and Baltick Sea, &c.

Wednesday, April 2. 4. Car. 1.

The business of Confinement came into Debate in the House of Commons, whereupon Sir Francis Seymour spake to this effect.

That it is said, the greatest Grievance is want of Supply, but I hold it a greater Grievance, that His Majesty is brought into these necessities, especially, considering the Supplies that of late have been given to the King, of two Subsidies in Parliament, besides Privy Seals; and that the late Loan, whereby Five Subsidies were forcedly, and unadvisedly taken; that it is not then what the Subjects do give, unless His Majesty do employ men of integrity and experience; otherwise, all that we give, will be as cast into a bottomless Bag.

Upon this occasion Sir Thomas Wentworth stood up and spake as followeth;

I Cannot forget that Duty I owe to my Countrey; unless we be secured as to our Libertys we cannot give: I speak not this to make diversions, but to the end, that giving, I may give chearfully. As for the Propositions made to induce us to give, and to be considered of, I incline to decline them, and to look upon the State of our Countrey; whether it be fit to give or no. Are we come to an end for our Countreys Libertys? have we entrenched on the right of the Deputy-Lieutenants? are we secured for time future?

Whereupon Mr. Selden speaking also upon this occasion of the Confinement of Sir Tho. Wentworth, &c. said,

That though Confinement is different from Imprisonment, yet it is against the Law that any should be Confined to his House or elsewhere. I know not what you can call a punishment, but here is some grounds of it, or mention thereof in Acts of Parliament, Books of Records, but for this Confinement I find none; Indeed Jews have been Confined in former times to certain places, as here in London to the Jewry, now called the Old Jewry, &c.

Hereupon

Hereupon Sir *Tho. Wentworth* spake briefly as to Sir *Peter Heymans* enforced Employment beyond Seas; That if any man owes a man a displeasure, and shall procure him to be put into Forreign employment, it will be a matter of high Concern in the Effect. We know the Honor and Justice of the King, but we know not what his Ministers, or the mediation of Ambassadors may do, to hold their own wrath upon any man.

April 11. 4 Car. 1.

MR. Secretary *Cook* moved for expediting of Subsidys, and turning of the Votes into an Act (saying) We have Finally and Chearfully given the King Five Subsidies, but no time is appointed, and Subsidy without time is no Subsidy, let us appoint a time.

To which Sir *Dudly Diggs* spake thus; We have (said he) freely concluded our Libertys; we have offered Five Subsidys, His Majesty hath given us Gracious Answers, and nothing is done that the King can take notice of, &c.

"Hereupon Sir *Tho. Wentworth* proposed a middle way, (*viz.*) That "when we set down the time, be sure the Subjects Libertys go hand in "hand together with the Kings Supply; then to resolve of the time, "but not to report it to the House till we have a ground, and a Bill for "our Liberties; This is the way to come off fairly, and prevent jealousies; Hereupon the Committee of the whole House Resolved, That Grievances and Supply goe hand in hand.

May 1. 4 Car.

MR. Secretary *Cook* delivered a Message from His Majesty, *viz.* To know whether the House would relye on His Royal Word or no, Declared to them by the Lord Keeper? which if they do, the King assured them it should be Royally performed.

Sir *Robert Phillips* of *Somersetshire* spake upon this occasion, and said; That if the words of Kings strike impressions in the Hearts of Subjects, to speak in a plain Language, said he, We are now come to the end of our journey, and the well disposing of an Answer to this Message, will give Happiness or Misery to this Kingdom; Let us set the Common-wealth of *England* before the Eyes of His Majesty, that we may justify to the world, that we have demeaned our selves, as dutiful Subjects to His Majesty.

Hereupon Sir *Thomas Wentworth* stood up and concluded the Debate, saying,

"That never House of Parliament trusted more in the goodness of their "King, for their own private, than the present; but we are ambitious, "that His Majestys goodness may remain to Posterity, and we are accountable to publique Trust, and therefore seeing there hath been a publique violation of the Laws by His Ministers, nothing will satisfy him "but a publique Mends; and to our desire vindicate the Subjects Rights "by Bill, is no more than is laid down in former Laws, with some modest provision for Restriction, Performance, and Execution; and this so "well

"well agreed with the sense of the House, that they made it the subject of
"a Message to be delivered by the Speaker to His Majesty.

Whilst the Lords afterwards were in Debate of the *Petition of Right*, they were pleased at a Conference to propose to the Commons, this following addition to the *Petition of Right*, viz.

1. We present this our Humble Petition to Your Majesty, with the care, not only of preserving our own Liberties, but with due regard to leave intire the Sovereign Power, wherewith Your Majesty is trusted for the Protection, Safety, and Happiness of the People.

Upon this, Sir *Edward Cook* spake, saying, This is *Magnum in Parvo*, This is propounded to be a conclusion of our Petition; it is a matter of great weight, and to speak plainly, it will overthrow all our Petition, it trenches on all parts of it. Look into the Petition of former times, they never Petitioned, wherein there was a saving of the Kings Sovereignty; I know the Prerogative is part of the Law, but Sovereign Power is no Parliamentary word &c.

Sir *Thomas Wentworth* spake next, and said,

"IF we do admit of this Addition, we shall leave the Subjects worse than
"we found them, and we shall have little thanks for our labour when
"we come home; let us leave all Power to His Majesty to punish Male-
"factors, but these Laws are not acquainted with Sovereign Power, we
"desire no new thing, nor do we offer to trench upon His Majestys Prero-
"gative, we may not recede from this Petition, neither in part or in whole;
"To add a saving is not safe, doubtful words may beget an ill constructi-
"on, and the words are not only doubtful words, but words unknown to
"us, and never asked in one Act or Petition before.

2. Now he began to be more generally taken notice of by all men, and his Fame to spread abroad, where publique Affairs, and the Criticisms of the times were discoursed by the most refined Judgments; those who were infected with popularity, flattering themselves, that he was inclined to support their inclination, and would prove a Champion upon that account; but such discourse, as it endeared him to his Countrey, so it begot to him an interest in the bosom of his Prince, who, (having a discerning Judgment of Men) quickly made his observation of *Wentworth*, that he was a person framed for great affairs, and fit to be near His Royal Person and Councils.

About this time, in the heat of so general a report of him; Sir *Richard Weston*, then Lord High Treasurer after Earl of *Portland*, a person also eminent for his acute and clear parts, coveted acquaintance with this Gentleman; and there not being wanting discreet Agents to accomplish what my Lord Treasurer desired, it was soon effected. After the first view a familiarity was begotten, and next a deep friendship. It happened, that in some Conferences, they touched upon the popular Humor (as they termed it) then appearing in the House of Commons, and the present ways they were in as tending to no good, he proposed the most rational and plausible mediations that could be, for the present juncture of affairs, in so much, that his judgment in things was much valued and followed.

In some time after he was made Baron *Wentworth*, and had so gained His Majesties opinion, that he was also created Viscount *Wentworth* of
Wentworth

Wentworth-Woodhouse, made one of His Majestys Privy Council, Lord-Lieutenant of the County of *York*, and Lord-President of the *North*; In this Trust he Governed himself with such skill, especially in those high contested points then in consultation, that he pleased his Prince, and improved His Majesties Revenue.

His frequent appearance at the Council-Board, quickly gave occasion to that Great Prelate Archbishop *Laud* (then Bishop of *London*) and himself, to discern one anothers parts, begetting a right understanding betwixt them, which grew into so inviolable a friendship, that nothing but the inevitable stroke of death could separate them, who, whilst they lived, constantly united their great Hearts and Understandings, for the advancing the Church, and the service of their Prince.

The Cedar was still growing, though perhaps, to the dislike of some Emulators, yet to the general satisfaction of all such as had ability enough to judge of his Parts.

His next advance was to be Lord-Deputy, and Chief Governor of *Ireland*: The affairs of that Realm being in much disorder by the temper of the Popish party there, who did not with moderation, make use of the Kings Clemency to them, in relaxation of the rigor of some penal Statutes.

He began with the Church, in the Reformation of his Kingdom, and first procured of the King, by the joynt mediation of the Archbishop, That all the Impropriations then in the Crown, would be restored to the Church in that Nation, though to some diminution of the Royal Revenue, and advanced Learned men, whose Judgments were for Episcopacy.

He raised in *Ireland* Eight Regiments for the Kings service, each consisting of 1000 men, in Ten Companies, besides Two more, which he intended to be raised in the nearest part of *Wales*.

Before this Army already raised, was dispersed into their several quarters, all which were in the Province of *Ulster*, near the Sea, in sight of *Scotland*, the Lord-Lieutenant returned into *England* by His Majesties Command, where an Army-Royal was Levied, in opposition to the Scottish design, leaving an Honourable person Mr. *Christopher Wandesford*, Master of the *Rolls*, Lord-Deputy; the Command of General of that Royal Army in *England*, was given to the Earl of *Northumberland*, then Lord-Admiral of *England*, upon whose sickness the Earl of *Strafford* was made Lieutenant-General, who having undertaken the Command of this Army, signified by Letter from *Dublin* to the Archbishop *Laud*, that he durst venture (upon peril of his Head) to drive the Scots out of *England*, but that he did not hold it proper, as the case then stood for him to advise that course; but if any of the Lords would advise the King to try his fortune in Battle, he doubted not of sending them home in more haste than they came; but this severity and indiscretion of his against that Kingdom when things were ripe, did much hasten his ruine and destruction, as may be seen by the following Impeachment.

The Charge of the Scottish Commissioners against Thomas Earl of Strafford.

IN our Declarations we have joyned with *Canterbury*, the Lord-Lieutenant of *Ireland*, whose Malice hath set all his Wits and Power on work, to devise, and do mischief against our Kirk and Countrey. No other cause of his malice can we conceive, but, First his Pride, and Super-

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percilious

The Charge of the Scotch Commissioners presented to the Parliament.

percilious disdain of the Kirk of *Scotland*, which in his opinion, declared by his Speeches, hath not in it almost any thing of a Kirk, although the Reformed Kirks, and many worthy Divines of *England*, have given ample testimony to the Reformation of the Kirk of *Scotland*.

Secondly, Our open opposition against the dangerous Innovation of Religion intended and very far promoted in all His Majesties Dominions, of which he hath shewed himself in his own way, no less zealous than *Canterbury* himself, as may appear by advancing of his Chaplain, Dr. *Bramhal*, not only to the Bishoprick of *Derry*, but also to be Vicar-General of *Ireland*; a man prompted for exalting of *Canterburian* Popery, and *Arminianism*, that thus himself might have the power of both Swords, against all that should maintain the Reformation, by his bringing of Dr. *Chappel*, a man of the same Spirit, to the University of *Dublin*, for poysoning the Fountains, and corrupting the Seminarys of the Kirk.

Thirdly, When the Primate of *Ireland* did press a new ratification of the Articles of that Kirk in Parliament, for barring such Novations in Religion, he boldly menaced him with the burning by the hand of the Hangman, all of that Confession, although confirmed in former Parliaments.

When he found that the Reformation began in *Scotland* did stand in his way, he left no means unassayed to rub disgrace upon us, and our Cause. The Pieces printed at *Dublin*, viz. *Examen conjurationis Scotianæ*, the *Ungirding of the Scottish Armor*: and the Pamphlet, bearing the counterfeit name of *Lisimachus Nicanor*, all three so full of Calumnies, Slanders, Scurrilous against our Countrey, and Reformation, that the Jesuits in their greatest spite, could not have said more, yet not only the Authors were countenanced and rewarded by him, but the Books must bear his Name, as the great Patron both of the Work and Workman.

When the National Oath and Covenant warranted by our general Assemblies, was approved by Parliament, in the Articles subscribed in the Kings Name, by His Majesties High Commissioner, and by the Lords of the Privy-Council, and commanded to be sworn by His Majesties Subjects of all ranks, and particular, and plenary information was given unto the Lieutenant, by men of such quality, as he ought to have believed of the Loyalty of our hearts to the King, of the lawfulness of our proceedings, and innocency of our Covenant, and whole course, that he could have no excuse: yet his desperate malice made him to bend his Craft and Cruelty, his Fraud and Forces against us. For first, he did craftily call up to *Dublin* some of our Countreymen, both of the Nobility and Gentry, living in *Ireland*, shewing them that the King would conceive, and account them as Conspirers with the Scots in their rebellious courses, except some remedy were provided; and for remedy, suggesting his own wicked invention, to present unto him, and his own wicked invention, to present unto him and his own wicked Council, a Petition, which he caused to be framed by the Bishop of *Rapho*, and was seen and corrected by himself, wherein they petitioned to have an Oath given them, containing a formal renunciation of the Scottish Covenant, and a deep assurance, never so much as to protest against any of His Majesties Commandments whatsoever.

No sooner was this Oath thus craftily contrived, but in all haste it is sent to such places of the Kingdom, where our Countreymen had residence;

dence; and Men, Women, and all other persons above the years of Sixteen, constrained either presently to take the Oath, and thereby renounce their National Covenant, as Seditious and Traiterous, or with violence and cruelty to be haled to the Jail, Fined above the value of their Estates, and to be kept close prisoners, and so far as we know, some are yet kept in prison, both Men and Women of good quality, for not renouncing that Oath which they had taken 40 years since, in the obedience to the King, who then lived. Besides, a cruelty ensued, which may paralel the persecutions of the most unchristian time: for weak Women dragged to the Bench to take the Oath, dyed in the place both Mother and Child, hundreds driven to hide themselves, till in the darkness of the night they might escape by Sea into *Scotland*, whether thousands of them did flye, being forced to leave Corn, Cattle, Houses, and all they possessed, to be a prey to their persecuting enemies, the Lieutenants Officers. And some Indicted and Declared guilty of High Treason, for no other guiltyness, but for subscribing our National Oath, which was not only impiety and injustice in it self, and an utter undoing of His Majestys Subjects, but was a weakening of the Scotch Plantation, to the prejudice of that Kingdom, and His Majesties Service, and was a high scandal against the Kings Honor, and intolerable abuse to His Majesties Trust and Authority, His Majesties Commission, which was procured by the Lieutenant, bearing no other penalty, than a certification of Noting the names of the refusers of the Oath.

But this his restless Rage, and insatiable Cruelty against our Religion and Countrey, could not rest here, nor be kept within the bounds of *Ireland*, but proceeded further, so that by this means a Parliament is called, and although by the Six Subsidies granted in Parliament not long before, and by the base means which himself and his Officers did use (as is contained in a late Remonstrance) that Land was extreamly impoverished, yet by his Speeches full of Oaths and Asseverations, that we were Traitors and Rebels, casting off all Monarchical Government, &c. He extorted from them four new Subsidies, & *indicta causa*, before we were heard, procured that a War was undertaken, and Forces should be levied against us, as a rebellious Nation, which was also intended to be an example and precedent to the Parliament of *England*, for granting Subsidies, and sending a joynt Army for our utter ruine.

According to his appointment in Parliament, the Army was gathered, and brought down to the Coast, threatening a daily invasion of our Countrey, intending to make us a conquered Province, and to destroy our Religion, Liberties, and Laws, and thereby laying upon us, a necessity of vast charges, to keep Forces on foot on the West Coast, to wait upon his coming.

And as the War was denounced, and Forces levied before we were heard; So before the denouncing of the War, our Ships and Goods on the Irish coast were taken, and the owners cast in prison, and some of them in Irons. Frigats were sent forth to scour our Coasts, by which they did take some, and burn others of our Barques.

Having thus incited the Kingdom of *Ireland*, and put his Forces in order there against us, with all hast he cometh to *England*.

In his parting, at the giving up of the Sword, he openly avowed our utter ruine and desolation, in these or the like words, *If I return to that Honourable Sword, I shall leave of the Scots neither root nor branch.*

How soon he cometh to Court, as before he had done very evil Office against our Commissioners, clearing our proceedings before the point; So now he useth all means to stir up the King and Parliament against us, and to move them to a present War, according to the precedent, and example of his own making in the Parliament of *Ireland*. And finding that his hopes failed him, and his designs succeeded not that way, in his nimbleness he taketh another course, that the Parliament of *England* may be broken up, and despiling their Wisdom and Authority, not only with great gladness accepteth, but useth all means that the conduct of the Army in the expedition against *Scotland*, may be put upon him; which accordingly he obtaineth as General Captain, with power to invade, kill, slay, and save at his discretion, and to make any one or more Deputies in his stead, to do, and execute all the Power and Authorities committed to him.

According to the largeness of his Commission, and Letters Patents of his devising, so were his deportments afterwards; for when the Scots, (according to their Declarations sent before them) were coming in a peaceable way, far from any intention to invade any of His Majesties Subjects, and still to supplicate His Majesty for a settled Peace, he gave order to his Officers to fight with them on the way, that the two Nations once entered in Blood, whatsoever should be the success, he might escape Trial, and censure, and his bloody designs might be put in execution against his Majesties Subjects of both Kingdoms.

When the Kings Majesty was again enclined to hearken to our Petitions, and to compose our differences in a peaceable way, and the Peers of *England* convened at *York*, had, as before, in their great wisdom and faithfulness, given unto His Majesty Counsels of Peace, yet this Firebrand still smoketh, and in that Honourable Assembly, taketh upon him to breath out threatenings against us as Traitors, and enemies to Monarchical Government; and threatened that we be sent home home again in our blood, and he will whip us out of *England*.

And as these were his Speeches in the time of the Treaty appointed by His Majesty at *Rippon*, that if it had been possible, it might have been broken up. So when a cessation of Arms was happily agreed upon there, yet he ceaseth not, but still his practises were for War; his under-Officers cantell who it was that gave them Commission to draw near in Arms beyond the *Tees*, in the time of the Treaty at *Rippon*.

The Governor of *Berwick* and *Carlisle* can shew from whom they had their Warrants for their Acts of hostility, after the cessation was concluded. It may be tryed how it cometh to pass, that the Ports of *Ireland* are yet closed, our Countreymen for the Oath still kept in Prison, Traffique interrupted, and no other face of affairs, then if no cessation had been agreed upon.

We therefore desire, that your Lordships will represent to the Parliament, that this great Incendiary upon these and the like offences, not against particular persons, but against Kingdoms and Nations, may be put to a Tryal, and from their known and renowned Justice, may have his deserved punishment.

The description
of his Per-
son and Fam-
ily.

THis Noble Earl was in person of a tall stature, something inclining to stooping in his Shoulders, his Hair black and thick, which he wore short, his countenance of a grave well composed Symetry, and good Features, only in his Forehead he exprest more Severity than Affability, yet a very courteous Person.

And

And as he went from the *Tower* to the *Scaffold*, his Countenance was in a Mild posture, between dejection in contrition for Sin, and a high Courage, without perceiving the least affectation of disguise in him.

He saluted the People as he walked on foot from the *Tower* to the *Scaffold*, often putting off his Hat unto them, sometimes to the right, and sometimes to the left hand, being apparelled in a Black cloth Suit, having White Gloves on his Hands.

And tho at this time there were gathered together on the great open place on *Tower-Hill*, where the *Scaffold* stood, a numerous croud of people, standing as thick as they could by one another, over all that great Hill; insomuch, as by the modest computation, they could not be esteemed to be less than 100000 people; yet as he went to the *Scaffold*, they uttered no reproachful or reflecting Language upon him.

He had Three Wives, the First the Lady *Margaret Clifford*, Sister to the Earl of *Cumberland*, who left no issue. The Second, the Lady *Arabella Hollis*, Sister to the Earl of *Clare*, who left him his only Son *William*, now Earl of *Strafford*, and Two Daughters. The Third Wife, was Daughter to Sir *Francis Rhodes* of *Yorkshire*, by whom he had one Daughter, an Infant at the time of his death.

On the First of *December* in the 17th year of the Kings Reign, by His Majesties Letters Patents, his Son *William* was restored to all his Fathers Dignities and Titles, and was made Knight of the most Noble Order of the Garter, having doubled his Paternal Glorys and his own, by marrying the worthy Daughter of two incomparable Parents, *Henrietta Maria*, the Daughter of *James* Earl of *Darby*, and *Charlotte*, Daughter of *Claude*, Duke de *Temoille* and *Charlotte* of *Nassau*, Daughter to *William*, Prince of *Orange*.

A brief Account of his Secretary Slingsby.

MR. *Slingsby* his Secretary, after the death of this Noble Lord, presently left the Kingdom, and was received beyond the Seas into the Queens favour, and by Her Majesty designed Secretary to the Prince of *Wales* (now Our Gracious Sovereign) but in his zeal to the Kings service, and to enable himself to attend Her Majesty upon Her Landing, he transported himself into *Cleveland*, where he had but a small Estate, but so much a bigger Interest, that in a very short time, he levied Eight hundred Foot, and Eighty Horse, with intention to make up a full Regiment, and Troop to wait upon the Queen.

He made his Quarters at *Gisborough* in *Cleveland*, but before the Foot were disciplined in the use of Arms, he was attacked by Sir *Hugh Cholmley* with 1500 Horse and Foot, and some Brass Drakes, Mr. *Slingsby* (who was wholly educated in Civil affairs, never in the active Military part) having timely notice of his Adversaries approach, thought not of any retreat, but addresses himself and party immediately, to draw out and fight the Enemy, notwithstanding the inequality in number. At his first charge Mr. *Slingsby* (having seasoned old Soldiers in his Troop, which he brought out of *Holland*) worsted their Horse, and had some pursuit and execution, but being alarmed behind, by the noise of an engagement, betwixt the Bodys of Foot, found his Regiment totally dissipated, beyond all hopes of rallying; whereupon he employed his Courage upon the Enemies Foot, in which Charge his Horse fell, and himself wounded with many Case-shot, and became prisoner.

The

The relation of Bloud moved Sir *Hugh Cholmly* to a generous regard and care of him, he was carried back to *Gisborough*, where (in order to the saving of his life) both his Legs were cut off above the knee, after which he lived three days.

The Lady *Slingsby* his disconsolate Mother, hastened from *York* (betwixt hopes of Life and fear of Death) to *Gisborough*, where she found the late hopes of her Family, and support of her age lying dead; and Sir *Hugh* was as much concerned as his Parent, for the loss of so accomplished a Gentleman.

Mr. *Slingsby's*
Interment.

His Body was carried to *York*, and there with very Honourable Solemnity interred in the Cathedral-Church, after a Sermon preached by Dr. *Bramhall*, then Bishop of *London-derry*, and late Primate of *Ireland*, who had a large experience of him.

His Extraction
and Education.

He was eldest Son of Sir *Guilford Slingsby*, of the Family of *Screuen*, and *Red-House*, in the County of *York*; his Fathers Estate did lye in *Cleveland* in the said County; he was Educated first at the University at *St. Andrews* in *Scotland*, and afterwards studied some years in the University of *Oxford*.

Sir *Guilford* his Father dying, the Earl of *Strafford* received this Gentleman in his Retinue, among other young Gentlemen of Quality, upon his going first into *Ireland*, where his Deportment, after some time, made his Lord to promote him to be Secretary, and afterwards Lieutenant of the Ordinance, and Vice-Admiral of *Munster*. Lastly, his Lord made choice of him before all others, to stand by him, and manage all his Papers, during his Confinement and Trial, And immediately after the Bill of *Attainder* did pass both Houses, the Earl wrote this ensuing Letter unto him.

A Letter from the Earl of Strafford to his Secretary Guilford Slingsby, Esq; after the passing of the Bill of Attainder, under his own Hand.

I Would not, as the case now stands, for any thing, you should endanger your self, being a person in whom I shall put a great part of my future Trust; and therefore in any case absent your self for a time, yet so, as I may know where you are, and therefore send your man back, that I may know whither to direct any thing I have to impart to you, and that presently, and after that, let your man come as little about this place as may be: your going to the King is to no purpose, I am lost, my Body is theirs, but my Soul is Gods; there is little trust in man, God may yet (if it please him) deliver me, and as I shall (in the best way he shall enable me unto) prepare my self for him, so to him I submit all I have; the person you were last withal at Court, sent to move that business we resolved upon, which if rightly handled, might perchance doe something; but you know my opinion in all, and what my belief is in all these things; I should by any means advise you to absent your self, albeit never so innocent, as you are, till you see what becomes of me; if I live, there will be no danger for you to stay, but otherwise keep out of the way till I be forgotten, and then your return may be with safety. I mean indeed, to leave you one in Trust for my Children, and thank you for your readiness to look after it.

Time

Time is precious, and mine I expect to be very short, and therefore no part of it to be lost. God direct and prosper you in all your ways; and remember there was a person whom you were content to call Master, that did very much value and esteem you, and carried to his death a great stock of his affection for you, as for all your services, so for this your care towards me all this time of my Tryal and Affliction; and however it be my misfortune to be decryed at present, yet in more equal times, my friends (I trust) shall not be ashamed to mention the Love to their Children, for their Fathers sake.

Your Affectionate Friend,

STRAFFORD.

The Reflections of King CHARLES the I. upon the Earl of Straffords Death.

I Looked upon my Lord of *Strafford* as a Gentleman, whose great abilities might make a Prince rather afraid, than ashamed to imploy him, in the greatest affairs of State.

For those were prone to create in him great confidence of undertakings, and this was like enough to betray him to great errors, and many enemies: whereof he could not but contract good store, while moving in so high a sphere, and with so vigorous a Luster, he must needs (as the Sun) raise many envious exhalations, which condensed by a Popular odium, were capable to cast a cloud upon the brightest merit and integrity.

Though I cannot in my judgment approve all he did, driven (it may be) by the necessities of times, and the temper of that people, more than led by his own disposition to any height and rigor of Actions: yet I could never be convinced of any such criminality in him, as willingly to expose his life to the stroke of Justice and Malice of his enemies.

I never met with a more unhappy conjuncture of affairs, than in the business of that unfortunate Earl; when between my own unsatisfiedness in Conscience, and a necessity (as some told me) of satisfying the importunities of some people; I was perswaded by those, that I think wished me well, to chuse rather what was safe, than what seemed just: preferring the outward peace of my Kingdoms with Men, before that inward exactness of Conscience before God.

And indeed, I am so far from excusing or denying that compliance on my part (for plenary consent it was not) to his destruction, whom in my judgment I thought not, by any clear Law guilty of death; that I never did bear any touch of Conscience with greater regret: which, as a sign of my repentance, I have often with sorrow confessed, both to God and Men,

Men, as an act of so sinful frailty, that it discovered more a fear of man, than of God, whose Name and Place on Earth no man is worthy to bear, who will avoid inconveniencies of State, by Acts of so high injustice, as no publique convenience can expiate or compensate.

I see it a bad exchange to wound a mans own conscience, thereby to salve State sores; to calm the storms of popular discontents, by stirring up a Tempest in a mans own bosom.

Nor hath Gods Justice failed in the event and sad consequences, to shew the world the fallacy of that Maxim, *Better one man perish (though unjustly) than the people be displeased or destroyed.*

For, in all likelyhood, I could never have suffered with my people, greater calamities (yet with greater comfort) had I vindicated *Straffords* innocency, at least by denying to Sign that destructive Bill, according to that justice which my Conscience suggested to me, then I have done since I gratified some mens unthankful importunities with so cruel a favour; and I have observed, that those, who counsell'd me to Sign that Bill, have been so far from receiving the rewards of such ingratiations with the people, that no men have been harassed and crushed more than they: he only hath been least vexed by them, who counselled me, not to consent against the Vote of my own Conscience; I hope God hath forgiven me and them the sinful rashness of that business.

To which, being in my Soul so fully conscious, those Judgments God hath pleased to send upon me, are so much the more welcome, as a means (I hope) which his mercy hath sanctified so to me, as to make me repent of that unjust Act (for so it was to me) and for the future to teach me, that the best rule of policy is to prefer the doing of Justice before all enjoyments, and the peace of my Conscience, before the preservation of my Kingdoms.

Nor hath any thing more fortified my resolutions, against all those violent importunities, which since have sought to gain a like consent from me, to Acts, wherein my Conscience is unsatisfied, than the sharp touches I have had for what passed me, in my Lord of *Straffords* business.

Not that I resolved to have employed him in my affairs, against the advice of my Parliament; but I would not have had any hand in his death, of whose guiltlessness I was better assured, than any man living could be.

Nor were the crimes objected against him so clear, as after a long and fair hearing, to give convincing satisfaction to the major part of both Houses; especially that of the Lords, of whom scarce a third part were present, when the Bill passed that House: And for the House of Commons, many Gentlemen disposed enough to diminish my L^d. of *Straffords* Greatness and Power, yet unsatisfied of his Guilt in Law, durst not condemn him to dye: who for their integrity in their Votes, were, by posting their Names, exposed to the popular Calumny, Hatred, and Fury, which grew then so exorbitant in their clamors for *Justice*, (That is, to have both my Self, and the Two Houses Vote, and do as they would have us) that many ('tis thought) were rather terrified to concur with the condemning party, than satisfied, that of right they ought so to do.

And that after Act, vacating the Authority of the precedent, for future imitation, sufficiently tells the world, that some remorse touched even his
most

most implacable enemies, as knowing he had very hard measure, and such as they would be very loath should be repeated to themselves.

This tenderness and regret I find in my Soul, for having had any hand (and that very unwillingly, God knows) in shedding one mans Blood unjustly (though under the colour and formalities of Justice and pre-rences of avoiding publique mischiefs) which may, I hope, be some Evidence before God and Man, to all posterity, that I am far from bearing justly, the vast Load and Guilt of all that Blood which hath been shed in this unhappy War; which some Men will needs charge upon me, to ease their own Souls, who am, and ever shall be more afraid, to take away any mans Life unjustly, than to lose my own.

An ACT for Reversing the Earl of Strafford's Attainder.

WHereas Thomas late Earl of Strafford, was impeached of High-Treason, upon pretence of endeavouring to subvert the Fundamental Laws, and called to a publique and solemn Arraignment, and Tryal before the Peers in Parliament, where he made a particular Defence to every Article objected against him; in-somuch that the turbulent party then seeing no hopes to effect their unjust Designs, by any ordinary way and method of proceedings, did at last resolve to attempt the Destruction and Attainder of the said Earl, by an Act of Parliament, to be therefore purposely made to condemn him upon accumulative Treason, none of the pretended crimes being Treason apart, and so could not be in the whole, if they had been proved, as they were not; and also adjudged him guilty of Constructive Treason (that is, of Levying War against the King) though it was only the Commanding an Order of the Council-Board in Ireland, to be executed by a Sergeant at Arms, and three or four Soldiers, which was the constant practice of the Deputies there for a long time: To the which end, they having first presented a Bill for this intent, to the House of Commons, and finding there more opposition than they expected, they caused a multitude of tumultuous persons to come down to Westminster, armed with Swords and Staves, and to fill both the Palace-yards, and all the approaches to both Houses of Parliament, with Fury and Clamor, and to require Justice, speedy Justice against the Earl of Strafford; and having by those and other undue practices, obtained that Bill to pass the House of Commons, they caused the Names of those resolute Gentlemen, who in a Case of innocent Blood, had freely discharged their Consciences, being Fifty nine, to be posted up in several places about the Citys of London and Westminster, and stiled them Straffordians, and Enemies to their Countrey, hoping thereby to deliver them up to the fury of the People, whom they had endeavoured to incense against them, and then procured the said Bill to be sent up to the House of Peers, where it having some time rested under great deliberation; at

last, in a time, when a great part of the Peers were absent, by reason of the tumults, and many of those who were present, protested against it, the said Bill passed the House of Peers; and at length His Majesty, the late King CHARLES the I. of Glorious Memory, granted a Commission for giving His Royal Assent thereunto, which nevertheless was done by His said Majesty, with exceeding great sorrow then, and ever remembred by him with unexpressible grief of Heart, and out of His Majestys great Piety, he did publickly express it, when His own Sacred Life was taken away by the most detestable Traytors that ever were.

For all which Causes be it Declared and Enacted by the Kings most Excellent Majesty, by, and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, That the Act Entituled, An Act for the Attainder of Thomas Earl of Strafford of High Treason, and all and every Clause and Article, and thing therein contained, being obtained as aforesaid, is now hereby Repealed, Revoked, and Reversed.

And to the end that Right be done to the memory of the deceased Earl of Strafford aforesaid; Be it further Enacted, That all Records and Proceedings of Parliament, relating to the said Attainder, be wholly Cancell'd, and taken off the File, or otherwise Defaced, and Obliterated, to the intent, the same may not be visible in after ages, or brought into example, to the prejudice of any person whatsoever.

Provided, That this Act shall not extend to the future questioning of any person or persons, however concerned in this business, or who had any hand in the tumults, or disorderly procuring the Act aforesaid, Any thing herein contained to the contrary thereof notwithstanding.

THE

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